

Comments on Additional Environmental Registry of Ontario (ERO) and Ontario Regulatory Registry (ERR) Postings Accompanying Bill 23 – *More Homes Built Faster Act*

ERO Posting 019-6177 - Review of a Place to Grow and Provincial Policy Statement

Information

The Provincial Policy Statement, 2020 (PPS) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (A Place to Grow) both provide comprehensive, integrated, whole-of-government policy direction on land use planning matters including growth management, housing and economic development, infrastructure planning and investment, transportation, transit, energy supply and corridor protection. Both policy documents aim to support the achievement of liveable communities, a thriving economy, a clean and healthy environment and social equity. A Place to Grow builds upon the policy foundation of the PPS and includes policies that are specifically directed towards the unique context and issues in the Greater Toronto and Hamilton Area (GTAH).

The Province is undertaking a review of these documents to determine the best approach to enable municipalities to accelerate the development of housing and increase housing supply, including rural housing. The Province is proposing to integrate the PPS and A Place to Grow into a framework that:

- to elevates housing-supportive policies and remove or streamline policies to reduce duplication that causes delays or burden in the development of housing;
- ensures key growth management and planning tools are available to increase housing supply;
- continues to protect environment cultural heritage and public health and safety; and,
- ensures growth is supported with appropriate amount and type of community infrastructure.

While details of proposed changes have not been included, the Province indicates that key elements of a new policy framework could include the following:

Residential Land Supply: Streamlined and simplified policy direction on settlement area boundary expansions and employment conversions, and increased flexibility to enabling rural residential development.

Attainable Housing Supply and Mix: Policy direction to provide greater certainty that an appropriate range and mix of housing options and densities to meet projected market-based demand and affordable housing needs can be developed, particularly in Major Transit Station Areas and Urban Growth Centres.

Growth Management: Policies that enables municipalities to use the most current and reliable information on future population and employment forecasts to determine housing needs an employment land needs; policies that direct increase housing supply through intensification in strategic areas such as along transit corridors and major transit station areas; and policies that required large and fast growing municipalities to coordinate with major provincial investments in roads, highways and transit.

Environment and Natural Resource: Policy direction to provide continued protection of prime agricultural areas while creating increased flexibility to enable more residential development; streamlined policy direction on natural heritage, natural and human-made hazards, aggregates; and continued conservation of cultural heritage while creating flexibility to increase housing supply.

Community Infrastructure: Policy direction to increase flexibility for servicing and support for long-range integrated infrastructure planning; a coordinated policy direction to ensure publicly funded schools are part of integrated municipal planning and meet the needs of high growth communities.

Streamlined Planning Framework: More streamlined, less prescriptive policy direction through fewer studies and straightforward approach to assessing land needs focused on outcomes that focus on relevance to land use planning matters, provincial interests and ease of implementation.

Staff Comments

There is no draft policy language presented at this time. Given the complexity of themes and general proposals identified, it will be important to understand the specific changes proposed and the extent to which streamlining and flexibility are incorporated into policies. Currently, the PPS and Places to Grow, provide a balanced approach to growth that protects natural heritage, cultural heritage, agricultural resources, and the environment. Changes focused on building housing is likely to alter the balance and impact other policy areas that are vital to building complete communities with healthy environments, strong economies and resiliency to the impacts of a changing climate.

There is uncertainty in whether or not the creation of a new policy document out of the PPS and A Place to Grow will actually increase the rate at which housing is developed. With the recent approval of many Municipal Comprehensive Reviews, municipalities, including Hamilton, will now be challenged to re-evaluate and further update their Official Plans to conform to a new Provincial planning framework. Such reviews take time and, in the absence of updated local planning instruments, could result in uncertainty and delays in building housing and achieving the new 2031 Municipal Housing Targets (ERO Posting 019-6171).

The Province could take a more strategic approach and instead of creating a new document at this time, focus on specific areas of the existing PPS and A Places to Grow that are most impactful for housing supply. To do this, deep consultation with municipalities and industry is required to ensure that unintended consequences of changes are avoided, and that changes will actually achieve the goals of building more homes faster.

In summary, the City of Hamilton does not feel there is a need to merge the documents as the current Provincial planning framework is balanced and appropriately guiding land use and infrastructure planning decisions through municipal plan conformity. Substantial changes to the documents will trigger a new round of conformity exercises and Municipal Comprehensive Review processes, likely leading to further delaying in aligning municipal plans to guide growth.

ERO Posting 019-6171 – 2031 Municipal Housing Targets

Information

This ERO posting is a Bulletin and consultation is not required or being sought by the Province. The Province has assigned housing targets to 29 selected lower and single tier municipalities in Southern Ontario. The selected municipalities are to work towards achieving housing targets by 2031. The City of Hamilton is on the list.

Targets are based on current population as well as 2011 to 2021 growth trends. Municipalities located in Ontario's largest and fastest growing Census Division have been allocated the greatest share of the overall Provincial target of 1.5 million new homes.

For Hamilton, the Province has identified a target of 47,000 new units to be built by the year 2031. The City's increased housing target is required to assist in meeting the Provincial target of 1.5 million new units in this same period.

Municipalities must develop a Municipal Housing Pledge for achievement of this target. The pledge must detail how development of the new housing units will be supported through planning tools and strategies. Pledges may include, but are not limited to, priorities for site-specific planning decisions to expedite housing in priority areas, [plans to streamline the development approval process, commitments to plan, fund and build critical infrastructure to support housing and strategies to use municipal surplus lands.

Staff Comments

The previous housing target for Hamilton to 2031 of 35,000 households has been increased by 12,000 units to 47,000 units. The previous target was based on the *Greater Golden Horseshoe: Growth Forecasts to 2051* from Hemson Consulting on behalf of the Province and identified a net increase of approximately 110,000 households in the 2021-2051 time period. The Province has not indicated if the 47,000 households is part of the planned increase of 110,000 households, or if it is an additional 12,000 households (and thereby increasing the total to over 122,000 households for Hamilton).

No updated methodology for determining the increased housing targets for municipalities across Ontario has been provided as part of the announcement.

No details have been provided regarding any potential housing target changes for the years 2041 and 2051 which were previously provided by the Province.

No details are provided about what housing forms should be considered through the increased unit target to 2031.

There is no guidance provided on how the Municipal Housing Pledge should be developed, and whether it needs to be included in the Urban and Rural Official Plans, or if it is a standalone document.

In summary, while the Province is not consulting on the new housing targets, the City of Hamilton is not supportive of the issuance of new housing target as it is not understood what the new 2031 target of 47,000 households means with respect to Hamilton’s overall growth management strategy and the approval of Hamilton’s Municipal Comprehensive Review Official Plan amendments (Urban Hamilton Official Plan Amendment 167, and Rural Official Plan Amendment 34.).

ERO Posting 019-6167 – Proposed Revocation of the Parkway Belt West Plan

Information

As part of the *More Homes Built Faster* initiative, the Provincial government is consulting on a proposal to revoke the Parkway Belt West Plan.

The Parkway Belt West Plan (PBWP) was Ontario’s first provincial land use plan that came into effect in 1978. The PBWP crosses a number of municipalities in the Greater Golden Horseshoe including Hamilton, Halton Region, Peel Region, the City of Toronto, and York Region. The purpose of the Plan is to support growth and development with the following goals:

- Provide separation and definition of urban area boundaries;
- Create links between urban areas by providing space for movement of people, goods, energy, and information (e.g., Hwy 407, inter-urban transit);
- Provide a land reserve for future linear facilities (e.g., hydro corridors); and,
- Provide a system of open space and recreational facilities (e.g., public open space, golf driving ranges).

The Plan was implemented through municipal official plans, local zoning and Minister’s Zoning Orders. Over the years, the Plan has been amended many times over its lifetime including policy and land use changes, re-designations, and removals of land from the Plan.

Provincial legislation, land use policies (e.g., the Provincial Policy Statement) and Provincial plans have provided a more modernized and up-to date policy framework that has resulted in the Parkway Belt West Plan becoming outdated. This includes policies in the Provincial Policy Statement and Provincial plans related to infrastructure, natural heritage, agriculture, parks and open space. If revoked, stakeholders would no longer have to apply for Plan amendments to permit uses or remove lands from the Plan.

Staff Comments

In the City of Hamilton, the PBWP policies apply only to the area located, generally, between Highway 403 and the shore of Burlington Bay between King Street and the boundary of Hamilton and Burlington.

The PBWP map however indicates a larger area in Hamilton as part of the PBWP in Dundas on the north shore of Cootes Paradise in the Pleasantview area of Dundas and on the east side of Olympic Drive (Hydro Building and Olympic Park). Although those lands were previously subject to the PBWP, in accordance with Section 22.1 (1) of the Ontario Planning and Development Act, the PBWP shall cease to apply to lands that are part of the Niagara Escarpment Planning Area. Accordingly, the PBWP no longer applies to these lands as the lands were added to the Niagara Escarpment Planning Area through past NEP amendments.

The remaining area east of Highway 403 is designated "Open Space" and "Utility" in the Urban Hamilton Official Plan, and "Rural" in the Rural Hamilton Official Plan. Several Natural Heritage features are also present on these lands. The zoning is in accordance with the Official Plan designations.

The City has provided comments previously to Province requesting that the lands in Dundas area be removed from the PBWP as they are appropriately designated under local and other Provincial plans. Similarly, the lands between Highway 403 and Burlington Bay are appropriately designated to protect the natural open space, natural heritage and hazard elements of the lands as well as the highway and rail corridors that runs through this area. The additional layer of policy provided through the PBWP is not required.

The revocation of a the PBWP removes a layer of policy that has become redundant over the years.

In summary, the City of Hamilton has no objection to the revocation of the Parkway Belt West Plan as it applies to the lands within the City of Hamilton.

ERO Posting 019-6161 - Conserving Ontario's Natural Heritage (Off-Setting)**Information**

The Ministry of Natural Resources and Forestry (MNR) has prepared a discussion paper and seeking feedback on how Ontario could offset development pressures on wetlands, woodlands, and other natural wildlife habitat. The MNR is considering developing an offset policy that would require a net positive impact on these features and help reverse the decades-long trend of natural heritage loss in Ontario. Creation of Policies to Offset Development Pressures on Wetlands, Woodlands, and Other Natural Wildlife Habitat.

In Ontario, natural heritage conservation is primarily implemented through the land use planning framework, including the Planning Act and the Provincial Policy Statement. Several provincial land use plans and statutes provide specific protections for natural heritage features, including wetlands. However, none of these incorporate provisions for offsetting, although some conservation authorities have developed their own policies.

Policies would provide further tools to make better land use decisions and help compensate for the loss of wetlands, woodlands, and other natural wildlife habitat in the Province

Staff Comments

Compensation/off-setting is a complex subject with many nuances. This has not been taken into consideration in the Discussion Paper. This is a slippery slope that could result in risks and uncertainties that could result in the loss and further fragmentation of the Natural Heritage System. This approach is not supported.

Clear direction for the use of a compensation/off-setting policy has not been provided. The risks of developing such a policy (or not developing a policy) has not been clearly identified. What are the pros and cons of an offsetting policy? In addition, it is unclear what scientific basis has been used to determine the appropriateness of such a policy.

Within the Discussion Paper, the term "net positive impact" has been used. It is unclear what is meant by this term since it has not been defined.

A more precautionary approach to the protection and enhancement of features/functions should be provided.

Unique Areas

The City of Hamilton has a long-standing tradition of protecting natural features. Historically, this protection was through the establishment of Environmentally Significant Areas within the former Region of Hamilton-Wentworth. Now, it is through the development of a Natural Heritage System that protects natural features and their functions within the entire City. The Discussion Paper does not contemplate that each area of the province is unique. A "one-size-fits all" approach is not appropriate.

Ecological Functions

As per the Provincial Policy Statement (PPS), the City of Hamilton has developed a Natural Heritage System (NHS), comprising of Core Areas and Linkages. The NHS was developed using the "systems" approach recognizing that the feature as well as its function is important. Fragmentation of the NHS has occurred in the past and may continue if features/functions are removed from the landscape. Compensation/off-setting may allow for isolated features to be incorporated into the broader NHS, however, it needs to be recognized that further fragmentation and loss of connection may result if the re-created features are not placed appropriately on the landscape. It is important to understand how newly created features/areas will be protected over the long-term.

The Discussion Paper indicates that compensation/off-setting would be available for all features (i.e., wetlands, woodlands, and other natural wildlife habitat). This suggests that some features may be less valued than others. It is also unclear if there is a hierarchy placed on provincially significant features above locally significant features.

Transferring natural heritage features/functions to other locations comes at great risk and uncertainty. Natural processes take many years to establish and there is no guarantee that compensation/off-setting would be successful in the long-run. More area may be required to ensure that the compensation/off-setting is successful. It seems that the exercise of off-setting may cause the loss of more potentially developable land to gain access for a particularly desirable location. With the amount of risk and difficulty in establishing a new feature and the extra land it would require, it would seem that designing with nature and keeping features in-situ is a model that would yield greater returns.

Restoration Opportunities

Within the Discussion Paper it has been identified that compensation/off-setting would be through intentional restoration. It is unclear why this approach cannot be achieved in part with a development application. Restoration of features/functions in-situ would be beneficial to the local biodiversity.

Evaluation

There may be several features that have not been identified on the landscape. It is presumed that evaluation of these features would be required (i.e., completion of an Environmental Impact Statement) as part of the development application and prior to compensation/off-setting. This has not been clearly discussed within the Discussion Paper. This assessment would provide an opportunity for a detailed review to determine if compensation/off-setting is appropriate.

Public or Private Lands

The Discussion Paper does not discuss whether compensation/offsetting would be limited to private lands or if public lands would be included.

Municipal Initiatives

There are many City of Hamilton corporate initiatives that have been completed or in the process of being completed. This includes the Climate Change Action Plan and Biodiversity Strategy. While compensation/offsetting may provide opportunities to enhance actions of these strategies, it may hinder or conflict with the overall goals/objectives. This has not been taken into consideration in the Discussion Paper.

Principles to Consider

The Province is considering the principles of "net gain", "avoidance first", "informed", "transparency and accountability" and "limits to offsets" in development of an offsetting policy.

Net Gain

It has identified that the goal of the offsetting policy should be a "net gain". This term has not been clearly defined. How does this term translate to on-the-ground application (i.e., increase in hectares, increase in feature type, increase in function)? How are time lags considered?

Within the current Provincial Policy Statement and the City of Hamilton's Official Plans, the term "net gain" is not used or defined. The policies within these documents require that the applicant demonstrate "no negative impacts" on ecological function. The discussion paper does not clearly identify how this concept/terminology will be reconciled.

It is recommended:

- Clear definitions of "net gain" be provided;
- Clear guidance on how "net gain" relates to the "no negative impact test" be provided; and,
- Clear methodology/rules/principles to address the concept of "net gain" be provided.

Avoidance First

Through the principle of "avoidance first" it is assumed that the mitigation hierarchy is to be applied when considering compensation/off-setting. This approach is one approved by many agencies, however, it is not consistently applied in practice. The reality is that compensation/off-setting is often considered the first step (instead of the last) since it is the more convenient option. Specific principles/methodology to determine the adherence to the mitigation hierarchy test have not been included within this Discussion Paper. It is recommended that if this policy direction is adopted that each development application should incorporate requirements on how to demonstrate that the full mitigation hierarchy has been followed. This could be included within Environmental Impact Statements required to be submitted as part of a development application.

If policy direction for off-setting is to be identified by the Province, it is important that the policy be clear, concise, and focused on the limited circumstances where offsetting would be allowed. This would avoid abuse of the approach. A flexible and permissive policy is not desirable.

Informed

It has been identified that off-setting should consider the best available science and include Traditional Knowledge. A clear process on how this will be implemented has not been provided. It is recommended that the Province provided clear guidance on how to consult and incorporate Traditional Knowledge in the decision-making process.

Transparency and Accountability

It has been identified that a compensation/off-setting policy should incorporate provisions for oversight, tracking and public reporting. The roles and responsibilities of the Province and municipalities have not been clearly defined. The implementation of compensation/off-setting may require additional resources (i.e., personnel, funding).

It is unclear if agreements would be put in place to ensure that the work is completed. Any off-setting policies would need to include the responsibilities of the stakeholders. If municipalities were to administer this policy, a list of "areas of focus" for future off-setting initiatives should be created (e.g., areas that have been identified as needing restoration, expansion of features to ensure they maintain their integrity). It would need to be updated regularly but could be a way to streamline the process for off-setting. It is unclear how securities will be taken and the costing and implementation of the new proposed offsetting policies. A clear procedure should be developed if municipalities will be taking on this responsibility.

Limits to Offsets

It has been identified that some wetlands should be ineligible for offsetting due their functions as recreation/tourism areas. This does not consider the ecological functions of these features.

The focus of the Discussion Paper is on wetlands (certain wetlands-coastal wetlands, bogs and fens should be considered off-limits to offsetting). This does not contemplate that there are other features that take a long time to establish (i.e., woodlands) or that there are features of importance to a specific community. For example, the City of Hamilton has established Environmentally Significant Areas (ESAs). These areas are locally significant, representing diverse habitats that serve important ecological and hydrological functions.

Natural heritage features are identified in the City's Official Plans and Zoning By-laws. Where development proposes to alter or remove a feature, then as part of the complete application, the required environmental reports and studies must be submitted. These are addressed by City staff, the applicable Conservation Authority and the City's Environmentally Significant Areas Impact Evaluation Group (ESAIEG) who provides their advice to Committee and Council. Any offsetting policy must consider both the quantity and quality of the mitigation measures plus a temporal component. While a Provincial policy would assist in these considerations, given the unique and varied topographies in Hamilton it is more appropriate to do this on a case by case basis where avoidance cannot occur.

ERO Posting 019-6160– Proposed Updates to the Ontario Wetland Evaluation System**Information**

The Province is proposing the following new changes to the content of the Ontario Wetland Evaluation Manuals:

1. Add new guidance related to re-evaluation of wetlands and updates to mapping of evaluated wetland boundaries;
2. Make changes to better recognize the professional opinion of wetland evaluators and the role of local decision makers (e.g. municipalities); and,
3. Other housekeeping edits to ensure consistency with the above changes throughout the manual.

Staff Comments

1. New Guidance related to re-evaluation of wetlands and updates to mapping of evaluated wetland boundaries

The proposed changes are to provide greater certainty and clarity related to how significant wetlands are assessed and identified.

Removal of Ministry of Natural Resources and Forestry (MNRF) Review

The revised manual removes oversight of wetland evaluations from the MNRF. The revised manual does not provide clear roles/responsibilities for the evaluators or the decision makers. In addition, there will be added resources required from municipalities (i.e., personnel with expertise, funding) to implement these revisions to the manual. This does not allow for further streamlining of decisions.

Wetland Re-Evaluation and Mapping Updates

Wetlands that have been evaluated can be re-evaluated or a boundary can be updated. It is unclear if there is a timeframe for these updates (i.e., every 5 years).

It has been identified that the outer boundary of a wetland can be updated if new information is available. It is unclear who is responsible for ensuring that the boundary assessment is accurate (i.e., Conservation Authority, municipalities).

Complete Evaluations

It has been identified that a wetland evaluation, re-evaluation, or mapping update will be considered "complete" once it has been received by a decision maker. The definition of "complete" as well as "decision maker" has not been provided. It is unclear if the onus is now on municipalities (instead of MNRF) to review. This would result in addition resources (i.e., personnel with expertise, funding) to be provided.

Clear guidance on determining the information required for a "complete" evaluation has not been provided.

In addition, it has been identified that the wetland evaluator must ensure that the affected landowners are aware of changes to wetlands (i.e., new evaluations, revised wetland boundary). It is unclear how this will be implemented. The onus should not be on the wetland evaluator, it should be on the agency responsible for review.

Field Visits

It has been identified that field visits are an essential component of the evaluation. The appropriate timing for these visits is generic. General time frames for the beginning and end of the evaluation (i.e., October when the first hard frost occurs) should be included within the manual. This provides clear understanding of when these evaluations should be undertaken.

Complexing of Wetlands

The complexing of wetlands has been removed from the manual. This approach does not consider ecological/hydrologic functions of the wetlands. A clear rationale based on scientific data has not been provided on why wetland complexes should no longer be considered. It is recommended that the manual include these features.

Habitat for Endangered or Threatened Species

The consideration of habitat for endangered and threatened species has been removed from the manual. A clear rationale based on scientific data has not been provided. Since wetlands may provide habitat for endangered and threatened species, it should be considered in the evaluation.

2. Changes to better recognize the professional opinion of wetland evaluators and the role of local decision makers (e.g., municipalities)

The proposed changes are to allow for further streamlining of development decisions by removing the requirement for the ministry to review and confirm wetland evaluation results

It appears that the Ministry of Natural Resources and Forestry (MNR) will not be responsible for review and management of wetland records. The expectations/roles of the municipality are unclear.

The City of Hamilton relies on the expertise of Conservation Authorities to ensure that wetland boundaries are evaluated accurately. If the review of wetland boundaries is strictly with the evaluator this could lead to inaccurate boundary delineation. Accurate feature boundaries are imperative in determining limits of vegetation protection zones (VPZs)/buffers as well as required zoning limits. If municipalities are required to review the boundaries of these features, additional resources (i.e., personnel with expertise, funding) would be required.

Currently, the MNR is responsible for the management of wetland records. If MNR is no longer responsible for wetlands, it is unclear how these records will be managed. Clear directions have not been provided.

3. Housekeeping Edits

Edits are proposed to reflect consistency because of the additional changes indicated above

A conservative approach is to consider all wetlands as significant until an evaluation has been undertaken. This concept has not been outlined within the revisions. Policies within the Provincial Policy Statement restrict development and site alteration within Provincially Significant Wetlands (PSWs) and significant coastal wetlands, which reflects their importance on the landscape.

Page 4 of the Revised Manual

Recognition that the wetland evaluation is not a complete record has been proposed to be removed. There is concern with the removal of this information because it does not recognize that there may be further evaluation required. This should remain within the manual.

It has been identified that the results of the evaluation are used to evaluate whether a wetland has been identified as a PSW. Sections b) "to determine whether it is to be protected pursuant to the Provincial Policy Statement and c) for information about the specific values of a wetland have been removed. There is concern with the removal of these statements. Currently, within the PPS, PSWs are recognized as the most restrictive features (no development or site alteration is permitted within these features). This recognizes the importance of these features. Since the evaluation is to determine if a wetland is provincially significant, it is unclear why this would be removed. This should remain in the manual.

Page 5 of the Revised Manual

Recognition that the wetland evaluation is an essential cornerstone of wetland policies within the PPS has been proposed to be removed. Since this is the most recognized tool for evaluating wetlands, this should remain in the manual.

Page 6 of the Revised Manual

It has been identified that the manual sets out guidance for assessing wetlands. Since only those with specific training are to complete wetland evaluations, it is unclear if additional wetland training courses will be provided. How will this knowledge gap be addressed?

Page 9 of the Revised Manual

Information on the wetland evaluation components has been removed. This information is important for record keeping. This should be retained within the manual.

Page 11 of the Revised Manual

Sources of information have been removed from the manual. It is unclear why this information has been proposed to be removed since it provides beneficial secondary source material on the wetlands. It is recommended that this information remain in the manual.

Page 23 of the Revised Manual

It has been identified that the catchment basin map will not be used in the scoring of the Hydrological Component of the wetland. It is unclear why this has been proposed to be removed.

Page 24 of the Revised Manual

Instructions on completing the wetland evaluation data and scoring record have been removed. It is unclear how the information for each wetland will be collected. This section should remain in the manual.

Page 33 Isolated (Site Type)

By removing wetland complexing, there are several isolated wetland pockets that may be contributing to a larger system that run the risk of not being ecologically accounted for appropriately. If there is question of a groundwater connection further procedural details should be included within the manual describing the methodology of determining this connection.

Page 63 of the Revised Manual

Locally Important Wetlands have been removed from the manual. A clear rationale has not been provided. While these wetlands are not provincially significant, they do provide important habitat and should be included within the manual.

In summary, the City of Hamilton does not support the proposed changes because of the lack of clarity, lack of justification for the proposed changes, and resulting uncertainty as to process going forward.

ERR Positioning 22-MMAH018 - Seeking Feedback on Municipal Rental Replacement By-Laws

Information

Under s.99.1 of the Municipal Act, 2001 (MA) municipalities may enact bylaws to regulate the demolition or conversion of multi-unit residential rental properties of six units or more. Bill 23 proposes to amend Section 99.1 of the Municipal Act to allow the Minister to make regulations imposing limits and conditions on the powers of a local municipality to prohibit and regulate the demolition and conversion of residential rental properties.

To inform the content of these potential regulations, the Ministry of Municipal Affairs and Housing (MMAH) is seeking input on whether and how municipal rental replacement bylaws may be impacting housing supply and renter protections (Ontario Regulatory Registry Posting 22-MMAH017).

Specific questions in the request for input include:

1. What types of requirements should municipalities be able to set around residential rental demolition and conversion?
2. What types of requirements should municipalities not be able to set (e.g., are there requirements that pose a barrier to creating new or renewed housing supply or limit access to housing)?
3. What impact do you think municipal rental replacement bylaws might have on the supply and construction of new housing?
4. What impact do you think municipal rental replacement bylaws might have on renter protections and access to housing?

Staff Comments

The City of Hamilton is currently conducting a review of the planning policy and process framework around conversions and demolitions of rental housing and is considering a by-law under S 99.1 of the Municipal Act. Establishing a permit process to regulate demolitions and conversions of rental housing through a by-law using the powers of Section 99.1 of the Municipal Act can strengthen the City's strategy to protect existing rental housing, particularly affordable rental housing. Consultations on a Section 99.1 By-law are still in progress and feedback reporting has not been completed. As such, final details of a proposed by-law, including potential conditions that could be applied, have not been determined.

The City has a strong interest in maintaining the authority to pass a by-law under Section 99.1 of the Municipal Act. This authority provides a mechanism which can assist with preserving rental housing stock, particularly rental housing stock with lower rent levels. The authority to set conditions on rental replacement such as tenant support in moving, temporary accommodation support and other forms of assistance which cannot be required through the Residential Tenancies Act (RTA) is important to help mitigate potential tenant impacts that a conversion or demolition proposal may cause. Relying on the RTA doesn't allow for these additional supports.

The City recognizes that providing additional housing supply within the system may create opportunities for individuals in existing rentals to move into a homeownership situation, and subsequently free up rentals. Proposed changes that look to create more rental supply (i.e. permitting up to three units on low density residential lots and proposed development charge changes that support the development of purpose built rental within the primary market) may also assist with improving rental market conditions.

1. *What types of requirements should municipalities be able to set around residential rental demolition and conversion?*
 - To require retention of proposed converted units as rental units, at similar rents and for a defined term;
 - Requirements that may help create a path towards ownership for existing tenants of a converted property;
 - Requirements to replace the Rental Units proposed for Demolition at similar rents and for a defined term;
 - Requirements for replacement units to have the same number of bedrooms at the removed units;
 - Requirements that the owner of the Residential Rental Property engage tenants early in the process and provide clear notification to any tenants who reside in rental units affected by the approval of relevant provisions and rights in the Residential Tenancies Act, 2006. These measures would assist tenants in making informed decisions, including around accepting any "buy-outs";
 - Requirements securing tenants' right to return to replaced rental units at similar rents (plus any Residential Tenancy Act rent increases), and associated notification requirements; and,
 - Requirements for tenant assistance as may be necessary to reduce hardships, including but not limited to the following:
 - Assistance with finding alternative accommodations at similar rents and in a comparable location, if requested, for tenants displaced by a demolition;
 - Rent top-up payments, if needed, capped at defined amounts, to bridge the gap between current rent and rent for a new unit;
 - Financial support for moving and help with making arrangements, if requested;
 - If rental units cannot be replaced, requirements for a cash-in-lieu payment to the City to build affordable rental units elsewhere. A standardized method of calculating a rental replacement value may be beneficial, to provide certainty for costs;
 - Municipalities should have the ability waive certain requirements if there are multiple factors at play that may add additional costs to redevelopment, (i.e. Inclusionary Zoning and Rental Replacement requirements);
 - Permit the redevelopment of rental units by non-profit groups because this may secure rental units for longer periods of time and will provide predictability to renters; and,
 - Any other requirements or provisions reasonably related to minimizing the impact of the Demolition or Conversion on the City's rental housing supply and on tenants.

2. *What types of requirements should municipalities not be able to set (e.g., are there requirements that pose a barrier to creating new or renewed housing supply or limit access to housing)?*

Municipalities should be permitted to maintain a broad range of powers to protect existing rental housing, particularly units with lower rents that represent a form of affordable housing. The ability to request tenant assistance and supports beyond the minimum compensation in the RTA should be maintained to ensure that impacts to existing tenants are adequately mitigated.

Additional data on market impacts of rental protection from municipalities with established by-laws would be useful to understand the pro forma impacts on the feasibility of developments.

3. *What impact do you think municipal rental replacement bylaws might have on the supply and construction of new housing?*

The key impact of municipal rental replacement bylaws is the protection of existing rental supply. Depending on individual situations and the extent of a by-law, conditions attached to conversion or demolition proposals could have varying levels of financial impacts for a development proposal. This could potentially direct more new housing development to sites that do not currently have rental housing. This may not result in any impact on the supply of new construction, but it may impact where in a city new development occurs.

It is noted that intensification on existing residential rental properties does not typically involve a full demolition of a rental building with more than six units. Often new develop occurs in the form of new units and/or buildings added to a property, in addition to existing units. This type of intensification should be encouraged as it allows for increased supply while also maintaining existing units.

4. *What impact do you think municipal rental replacement bylaws might have on renter protections and access to housing?*

The goal of creating new housing must be balanced appropriately with protecting those who are living in existing housing. Protecting existing rental housing stock ensures that residents remain housed. In particular, households with affordable rents are at greatest risk of housing instability due to a demolition. The City wants to ensure long term maintenance of rental stock while a permanent solution to the housing crisis is developed and maintained.

Restricting the scope of conditions and requirements permitted within municipal rental replacement bylaws may result in negative impacts to existing renters. Rental replacement by-laws can assist with addressing tenant impacts caused by conversions and demolitions that are not addressed through the RTA. This adds additional reassurance and predictability for renters that they will continue to have access to housing at similar rents, without major unanticipated costs and rent increases resulting from displacement.

In summary, the City of Hamilton does not support changes because protecting existing supply of affordable rental units is necessary to ensure we have balanced, inclusive communities.

ERR Posing 22-MMAH016 – Proposed Building Code Changes to Support More Homes Built Faster: Ontario’s Housing Supply Action Plan:2022-2023 (Phase 3 Fall 2022consultation for the Next Edition of Ontario’s Building Code), and, ERO Posting 019-6211 - Proposed Changes to Sewage Systems and Energy Efficiency

Information

Three groups of changes are proposed in association with ongoing program of developing an update Ontario Building Code. The first group of changes would amend the requirements in Ontario's Building Code for mid-rise wood buildings between four and six storeys to harmonize with current requirements in the National Building Code. The second group of changes would remove the current requirement for a standpipe system in a four-storey stacked townhouse. Through an associated ERO Posting 019-6211, technical changes are proposed for sewage systems and Energy Efficiency.

The current postings update requirements and increases harmonization between Ontario’s Building Code and the National Construction Codes, including the National Energy Code. The next edition of the Ontario Building Code is anticipated to be filed in Spring 2023, coming into effect in Spring 2024.

City of Hamilton Staff provide comment to the Province through participation on the Large Municipalities Chief Building Official group and the Ontario Building Officials Association.