

Proposed Bill 23		
Schedule 2 – Conservation Authorities Act		
Proposed Change	Provincial Explanation of Change	Comments
Updates to the regulation of development for the protection of people and property from natural hazards	Focus development approvals under the <i>Conservation Authorities Act</i> on the risk of natural hazards (including flooding) and addressing their relationship to municipal land use planning to ensure commitments and objectives of Ontario’s Flooding Strategy are met.	<p>A single, new regulation is proposed to apply across all of the province’s Conservation Authorities. This does not recognize the unique attributes of different regions of the Province. A better approach would be to create a clear implementation manual/guideline to ensure that a consistent approach is applied to policies/regulations.</p> <p>The definition of “watercourse” is proposed to be updated. This new definition (a defined channel having a bed, bank and sides) does not take into consideration important Headwater Drainage Features. It is recommended that the current definition be retained. It is likely that the proposed change will mean that appropriate setbacks and/or buffers will be eliminated or reduced.</p> <p>In some cases, man-made channels have naturalized over time and provide ecological functions and would therefore may not meet the newly defined watercourse characteristics even though these features provide an ecological function.</p> <p>It has been proposed that “other areas” in which the prohibitions on development apply will mean within 30 metres of all wetlands. The rationale for the change has not been clearly provided. In addition, this term has not been clearly defined.</p> <p>Low-risk activities have been proposed to be exempted from requiring a permit.</p>

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<p>Updates to the regulation of development for the protection of people and property from natural hazards Continued</p>		<p>This may reduce the review time freeing up staff for more complex permits. It is unclear how this would be implemented.</p> <p>It has been proposed that site-specific conditions attached to a permit would be limited to matters associated with natural hazards and public safety. Since development is to be prohibited in features such as watercourses and wetlands, which provide natural heritage functions, it is unclear why this would not be considered in the issuance of a permit. The limiting of conditions does not recognize that each site is different.</p> <p>Currently the CA is responsible for the update to the Regulated Area mapping and the provision of this information to municipalities. It should be confirmed that this function and process will continue.</p> <p>The City does not support the proposed changes.</p>
<p>Focusing Conservation Authorities' role in review of development related proposals and applications</p>	<p>Focus Conservation Authorities' role when reviewing and commenting on proposals, planning applications, and other matters related to development and land use planning to their core mandate to protect people and property from the impacts of natural hazards.</p>	<p>Conservation Authorities will no longer be able to review and comment on development applications and supporting studies on behalf of a municipality except as it relates to risks of natural hazards (core mandate) only.</p> <p>Natural hazards include control of flooding, erosion dynamic beaches or unstable soil or bedrock. Clarification is needed as to whether or not karst study is included in the review of bedrock.</p> <p>It is unclear if stormwater management review within regulated areas is within the list of other matters that the CAs will not be able to comment on. Clarification in this regard is needed.</p>

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<p>Focusing Conservation Authorities' role in review of development related proposals and applications Continued</p>		<p>The City of Hamilton is located within the boundaries of four Conservation Authorities (Conservation Halton, Grand River Conservation, Hamilton Conservation and Niagara Peninsula Conservation). A Memorandum of Understanding (MOU) has been established with all four Conservation Authorities to provide planning application and review services to the City. It is recognized that the City is the approval authority for <i>Planning Act</i> applications. The City's MOU with the Conservation Authorities will need to be revised to identify the commenting role (level) of the CAs in response to the proposed <i>Planning Act</i> and <i>CA Act</i> changes.</p> <p>The Conservation Authorities provide professional advice on development applications, generally aligning with the City's position. This is beneficial since it reinforces policy direction. They also provide expertise that municipalities rely on and avoids duplication of roles and activities (specifically with regards to wetland evaluation/delineation).</p> <p>Within the Planning and Economic Development Department (PED) there are two staff with specialized expertise in ecology/natural heritage planning and three staff with expertise in infrastructure planning engineering. If the Conservation Authorities role is reduced in scope, this could result in additional staffing resources within PED to complete the additional review function and possible delays in reviewing/approving applications due to resourcing.</p>

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<p>Focusing Conservation Authorities' role in review of development related proposals and applications Continued</p>		<p>It is unclear if additional training or funding would be provided to municipalities to address this gap.</p> <p>The City does not support the proposed changes.</p>
<p>Limit Conservation Authority appeals of land use planning decisions with respect to matters related to natural hazard</p>	<p>Limit Conservation Authority appeals of land use planning decisions except where they are the applicant and, when acting as a public body, with respect to matters related to natural hazard policies in the PPS. This is to take effect on January 1, 2023.</p>	<p>The Conservation Authorities' participation in appeals to land use planning decisions is important, specifically in areas where municipalities do not have the required expertise or where roles and responsibilities have been assigned based on the City-CA MOU.</p> <p>It is not clear how the skill gap will be addressed by the Province if municipalities do not have the resources and/or capacity to provide the expertise that the Conservation Authority staff currently provide.</p> <p>It is not clear if there are transition regulations proposed for applications already in process at the OLT.</p> <p>The City does not support the proposed changes.</p>
<p>Freezing Conservation Authority Fees</p>	<p>Amendments proposed to enable the Minister to direct a Conservation Authority to maintain its fees charged for programs and services at current levels intended to reduce the financial burden on developers and other landowners.</p>	<p>The fees charged by a Conservation Authority relate to cost recovery. Additional staff may be required to assist in expeditious review. It is unclear how these resources would be funded. This may result in a decline in service levels. Clear direction has not been provided.</p> <p>The proposed changes have not been defined how the Conservation Authorities will be funded with the proposed changes and how the existing MOU will change between Municipalities and Conservation Authorities.</p>

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Freezing Conservation Authority Fees Continued		<p>If the existing funding model is reduced and the ability for Conservation Authorities to charge for service is capped, this can lead to budgetary restrictions and a possible decline in service and quality of work.</p> <p>It is anticipated that the City's fee schedule will need to be reviewed and revised to recognize the additional level of review and added responsibility to the City as a result of the proposed <i>Planning Act</i> and <i>CA Act</i> changes.</p> <p>The City does not support the proposed changes.</p>
Identify Conservation Authority Lands suitable for housing and streamlining Conservation Authority severances and disposition processes that facilitate faster development	<p>Conservation Authorities own and manage over 145,000 hectares of land, which has been acquired from provincial grants issued under the <i>Conservation Authorities Act</i>.</p> <p>The Mandatory Programs and Services regulation (O. Reg. 686/21) requires Conservation Authorities to complete a conservation area strategy and land inventory of all lands that they own or control by December 31, 2024. This inventory would also identify Conservation Authority owned or controlled lands that could support housing development.</p> <p>This would result in the identification of additional lands that could be used for housing.</p>	<p>Lands that are owned by Conservation Authorities contain important features and functions that contribute to the Provincial Natural Heritage System (i.e., wetlands, woodlands, Ecologically Significant Areas, habitat for threatened and endangered species, significant wildlife habitat). These areas are also important in addressing climate change (flooding prevention, canopy cover, energy conservation).</p> <p>Lands owned by Conservation Authorities include public open spaces that are essential to the well-being of people. Conservation Authority lands that provide ecological services, stormwater management and open space passive recreational functions in the urban or rural settlement areas should not be considered for housing.</p> <p>During the Pandemic, nature and public space brought solace to the population of Hamilton and adjacent communities in Ontario. Unprecedented citizens traversed trail systems and parks across the Province.</p>

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<p>Identify Conservation Authority Lands suitable for housing and streamlining Conservation Authority severances and disposition processes that facilitate faster development Continued</p>		<p>Removing greenspace/trail systems/parks from the Conservation Authority lands will remove a valued feature to Hamilton and other residents of Ontario.</p> <p>The City does not support the proposed changes.</p>
<p>Amend the <i>Planning Act</i> to expedite processes associated with the severance and conveyance of land environmentally sensitive lands</p>	<p>These changes would broaden the ability of a Conservation Authority to use streamlined processes to sever and dispose of land.</p>	<p>No Comment provided the intent is to facilitate the disposition of “surplus lands” that do not perform an ecological function and the unrequired lands will be utilized for agricultural or related uses.</p> <p>The City does not support the proposed changes.</p>
<p>Exempt development under the <i>Planning Act</i> from requiring a permit from municipalities set out in regulation, where certain conditions are met as set out in regulation</p>	<p>This exemption tool is not part of the regulatory changes but has been provided to assess how to streamline development approvals in the future while still ensuring the protection of people and property from natural hazards.</p>	<p>The proposed legislation would enable the exemption of development under the <i>Planning Act</i> from requiring a permit from the Conservation Authority under section 28 of the <i>Act</i>, within prescribed municipalities and where prescribed conditions are met. The prescribed municipalities where this exemption will apply will be identified through a future regulation.</p> <p>Should development be exempt from the requirement for a permit, CAs will no longer undertake enforcement and compliance reviews for matters where a permit is no longer required. The requirement for enforcement and compliance monitoring would fall to the City as an additional area of responsibility.</p>

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<p>Exempt development under the <i>Planning Act</i> from requiring a permit from municipalities set out in regulation, where certain conditions are met as set out in regulation Continued</p>		<p>It is anticipated that additional City staff (infrastructure planning engineers, engineering review staff, enforcement and compliance staff) may be required to assist in the review of development applications and enforcement in the absence of permitting by the CA.</p> <p>Conservation Authorities are the authority for implementing Section 3.0 (Protecting Public Health and Safety) of the Provincial Policy Statement. To ensure that public health and safety is maintained, exemptions should not be applied.</p> <p>The City does not support the proposed changes.</p>
Schedule 3 – Development Charges Act		
Proposed Change	Provincial Explanation of Change	Comments
<p>To be discussed in a separate report for Audit, Finance and Administration Committee (Report FCS22085).</p>		
Schedule 4 – Municipal Act		
Proposed Change	Provincial Explanation of Change	Comments
<p><i>Municipal Act</i> Section 99.1</p>	<p>Under s.99.1 of the <i>Municipal Act, 2001 (MA)</i>, municipalities may enact by-laws to regulate the demolition or conversion of multi-unit residential rental properties of six units or more.</p> <p>Bill 23 proposes to amend Section 99.1 of the <i>Municipal Act</i> 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.</p>	<p>The Province has not proposed any specific regulations at this time but has indicated that it will be launching consultations on this matter, with the goal of protecting renters while also allowing more housing to be built. The Province has indicated that requirements for replacement of demolished rental units could “prevent renewal, limit the supply of rental units and lead to deteriorating housing stock”.</p> <p>The City is currently conducting a review of the planning policy and process framework around conversions and demolitions of rental housing.</p>

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<p><i>Municipal Act</i> Section 99.1 Continued</p>	<p>To inform the content of these potential regulations, the Ministry is seeking input on whether and how municipal rental replacement by-laws may be impacting housing supply and renter protections (Ontario Regulatory Registry Posting 22-MMAH017).</p> <p>Specific questions in the request for input include:</p> <ol style="list-style-type: none"> 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? 	<p>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 <i>Municipal Act</i> was identified in the review as a key feature which can strengthen the City’s strategy to protect existing rental housing, particularly affordable rental housing (Report PED22091).</p> <p>The creation of regulations imposing limits and conditions on the powers of a local municipality may limit the City’s powers to require replacement units, cash-in-lieu for replacement units, and other tenant supports when a conversion or demolition is proposed.</p> <p>The City does not support the proposed changes.</p>
Schedule 5 – New Home Construction Licensing Act		
Proposed Change	Provincial Explanation of Change	Comments
<p>Proposed amendments to the <i>New Home Construction Licensing Act, 2017</i></p>	<p>Proposing amendments to the <i>New Home Construction Licensing Act, 2017 (Licensing Act)</i> to address unethical behaviour by vendors and strengthen consumer protection for purchasers of new homes in Ontario who may be adversely impacted by price escalations and terminations of agreements.</p>	<p>No comment.</p>

Schedule 6 – Ontario Heritage Act		
Proposed Change	Provincial Explanation of Change	Comments
New powers of the Lieutenant Governor to make regulations to implement amendments to the <i>Act</i>	Section 71 of the <i>Act</i> authorizes the Lieutenant Governor in Council to make regulations governing transitional matters to facilitate the implementation of the amendments made in the Schedule.	<p>Draft regulations have not been posted for review and comment and as such it is unclear what implications will be of the Lieutenant Governor having the authorization to make regulations to implement the amendments.</p> <p>The ERO posting indicates that the intention is to modify Ontario Regulation 9/06 to require that a property meet two criteria to be worthy of Part IV designation and to also require that a property meet one criterion to be listed on the Register.</p> <p>The requirement for Part IV designated properties to meet two criteria is reasonable since most properties that are designated in Hamilton meet multiple criteria from Ontario Regulation 9/06. However, there may be properties that would only meet one of the criteria (eg. associated with a historical person) and therefore the properties could not be designated. For example, the former residence of the RT Honourable Lincoln Alexander is on the City’s workplan for designation. The dwelling is a post-war building and may not meet multiple criteria for designation. However, these powers could allow the Lieutenant Governor to make additional changes to Ontario Regulation 9/06 and the other <i>Ontario Heritage Act</i> related regulations.</p> <p>The City does not support the proposed changes.</p>

Proposed Change	Provincial Explanation of Change	Comments
New powers to exempt public bodies from complying with Provincial standards and guidelines for conservation	New subsection 25.2 (7) authorizes the Lieutenant Governor in Council to, by order, exempt the Crown, a ministry or a prescribed public body from having to comply with the heritage standards and guidelines in respect of a particular property, if the Lieutenant Governor in Council is of the opinion that such exemption could potentially advance one or more provincial priorities, as specified.	<p>The new powers of the Lieutenant Governor could result in the loss of significant local cultural heritage resources such as Century Manor where provincial priorities are deemed more important, including transit, housing, health and long-term care, other infrastructure, and other non-heritage priorities.</p> <p>This reflects an approach contrary to the Provincial Policy Statement under the <i>Planning Act</i> which recognizes that heritage is a public good to be considered when balancing provincial interests in the name of good planning and sets a concerning precedent and the Province should lead by example through the long term protection of heritage resources.</p> <p>The City does not support the proposed changes.</p>
Heritage Register to be posted on City website	New subsection 27 (1.1) requires the clerk of the municipality to ensure that the information included in the register is accessible to the public on the municipality's website.	The City of Hamilton already complies with this requirement.
Increased threshold for listing non-designated properties on Register	Subsection 27 (3) is re-enacted to require that non-designated property must meet the criteria for determining whether property is of cultural heritage value or interest, if such criteria are prescribed.	<p>Properties recommended for listing on the Register would need to meet one criterion from Ontario Regulation 9/06.</p> <p>The City of Hamilton already complies with this requirement.</p> <p>The prescribed criteria are not yet known. It is presumed that the criteria will be Ontario Regulation 9/06, but the other proposed amendments provide the Lieutenant Governor powers to prescribe regulations and could change the criteria as we know them today.</p>

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Expansion of owner objection rights for properties listed on the Register prior to Bill 108 proclamation on July 1, 2021	Current subsection 27 (13) is re-enacted to provide that, in addition to applying to properties included in the register on and after July 1, 2021, the objection process set out in subsections 27 (7) and (8) apply to non-designated properties that were included in the register as of June 30, 2021.	<p>Owners of properties listed on the Register prior to July 1, 2021 would be able to object to listing, as per Section 27(7).</p> <p>The City of Hamilton already accepts owner objections to listings added before July 1, 2021.</p> <p>The City does not support the proposed changes.</p> <p>It is unclear if the City would be required to notify all owners already listed on the Register to advise them of their new objection rights under the <i>Act</i>.</p> <p>The City does not support the proposed changes.</p>
Removal of listed properties in certain circumstances	Section 27(14) would require Council to remove any listed properties from the Register that have been subject to notices of intention to designate that have been withdrawn, have not resulted in the passing of a by-law, or have had by-laws that have been repealed.	<p>It does not appear as though the City of Hamilton has any properties in this situation that would be required to be removed from the Register. However, this would be problematic as removing them from the Register may prevent the City from deciding whether or not to proceed with designation and if not from being able to require they be documented prior to demolition or removal.</p> <p>The City does not support the proposed changes.</p>
Introduction of two-year expiries for current Register listings	Section 27(16) – Council would have to remove any property already listed on the Register that have not had Notices of Intention to Designate (NOID) issued within two years of the proposed amendments coming into force and effect.	<p>Giving Register listing an expiry date is contrary to how the City of Hamilton uses this tool under the <i>Ontario Heritage Act</i>. Properties are placed on the Register to identify their heritage value or interest to ensure they are flagged for further review and consideration as part of development applications and planning studies and to ensure staff, the public, prospective purchasers and property owners are aware of the heritage interest of their property and can make informed decisions about how they are maintained and developed.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Introduction of two-year expiries for current Register listings Continued</p>		<p>Inclusion on the Register also allows 60-days to consider designation and other measures (such as documentation) should an owner be proposing demolition of a building or structure on the property. The Register is also an important tool in flagging properties of heritage interest owned by higher levels of government that cannot be municipally designated under Part IV of the <i>Act</i>.</p> <p>There may also be impacts to the City's ability to add Cultural Heritage Landscapes of interest on the Register and ensure they are conserved through the <i>Planning Act</i> process.</p> <p>There are significant staffing and resource implications to addressing this legislative change. In order to ensure that properties already identified as candidates for Part IV designation are adequately protected, the City would need to review all of the 166 properties on the designation work plan and 2,345 properties currently on the Register and make recommendations to HMHC and Council as to whether they should be designated within two years of the proposed amendments coming into force and effect. Staff have historically, on average, been able to process four designations per year with the current resources. It is also anticipated that there will be increased appeals to the Ontario Land Tribunal that would require additional legal resources.</p> <p>The rationale for the limitations and restrictions being placed on the Register listing tool in assisting with the provision of more housing is not provided. Listed heritage properties in Hamilton currently account for less than 3% of all built parcels across the entire city.</p>

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<p>Introduction of two-year expiries for current Register listings Continued</p>		<p>Listing on the Register does not legally restrict the use of a property. The City of Hamilton's policies allow for and provide additional financial incentives to facilitate the adaptive reuse and intensification of listed properties, including 100% development charge exemption for new units in listed properties that are designated prior to the application of building permits.</p> <p>The Register has been developed through extensive community consultation and 1000's of hours citizen volunteer time.</p> <p>Given the above, the proposed expiry times for the Register will result in minimal new housing and may result in a loss of cultural heritage resources. Consideration should be given removing this provision of Bill 23 and not impose expiry times on the Register.</p> <p>The City does not support the proposed changes.</p>
<p>Introduction of two-year expiries for new Register listings</p>	<p>Section 27(15) – Council would have to remove any new properties listed on the Register after these amendments come into effect, that have not had notices of intention to designate issued within two years of them being listed.</p>	<p>The proposed changes to the <i>Act</i> imply that the Register's only use is as a placeholder for properties that may be candidates for Part IV designation under the <i>Ontario Heritage Act</i>. Introducing an expiry date diminishes the City's ability to proactively identify properties of heritage interest and ensure that significant heritage resources are conserved, as per the Provincial Policy Statement.</p> <p>The City does not support the proposed changes.</p>
<p>Introduction of five-year time limit to re-list a property on the Register</p>	<p>Section 27(18) – Properties removed from the Register in accordance with the new provisions above outlined in Section 27(14) to (16) would not be able to be listed on the Register again for five years.</p>	<p>This will leave properties of heritage interest vulnerable to demolition as part of the <i>Planning Act</i> process.</p> <p>The City does not support the proposed changes.</p>

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New restrictions for designating properties subject to prescribed events under the <i>Planning Act</i>	Section 29(1.2) – A property would need to already be listed on the Register in order for Council to be able to issue a Notice of Intention to Designate (NOID) within 90-days of a prescribed event under the <i>Planning Act</i> .	<p>The proposed two-year expiration on listing and five-year restriction on when properties can be re-listed will leave properties of heritage interest vulnerable to demolition as part of the <i>Planning Act</i> process. For example, a property of heritage interest that is currently listed may be automatically removed from the Register. This property would still be of heritage interest, but staff would not be able to list it on the Register again before a <i>Planning Act</i> application is submitted. A NOID could not be issued to protect it. This may result in a loss of cultural heritage resources.</p> <p>The City does not support the proposed changes.</p>
Consultation with Heritage Committee regarding the Register	Section 27(17) – Council would not have to consult with their Heritage Committee before removing properties from the Register in accordance with 27(14) to (16).	<p>Citizens, property owners, and members of the community have invested considerable volunteer time into the development of the Register as part of developing a shared understanding of the cultural heritage of their community and neighbourhood.</p> <p>A lack of transparency in decision making may contribute to a lack of trust in local government.</p> <p>The City does not support the proposed changes.</p>
New criteria for designating Heritage Conservation Districts	Subsection 41 (1) of the <i>Act</i> currently permits a council of a municipality to designate, by by-law, the municipality or any defined area of it as a heritage conversation district, if there is in effect in the municipality an official plan that contains provisions relating to the establishment of a heritage conservation district. The subsection is re-enacted to also require the municipality or defined area or areas to meet criteria for determining whether they are of cultural heritage value or interest, if such criteria are prescribed.	In order for new Heritage Conservation Districts (HCDs) to be designated, they would need to meet new prescribed criteria.

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New criteria for designating Heritage Conservation Districts Continued		<p>The proposed criteria are those identified for the evaluation of properties for individual designation under Part IV of the <i>Ontario Heritage Act</i> and are not in line with best practice for determining the cultural heritage value or interest of an area or landscape, or the criteria previously-identified in the Ontario Heritage Toolkit's Heritage Conservation Districts, A Guide to District Designation under the <i>Ontario Heritage Act</i>.</p> <p>The City does not support the proposed changes.</p>
New procedures for amending and repealing Heritage Conservation Districts	New subsections 41 (10.2) and (10.3) require a council of a municipality wishing to amend or repeal a by-law made under the section to do so in accordance with such process as may be prescribed; similar rules are added to section 41.1.	<p>The prescribed process and its implications are not yet known.</p> <p>The City does not support the proposed changes.</p>
Schedule 7 – Ontario Land Tribunal Act		
Proposed Change	Provincial Explanation of Change	Comments
Undue delay as ground for dismissal	Addition of discretionary authority to the tribunal to (on a motion or its own initiative) dismiss an appeal without a hearing if the Tribunal is of the opinion that the party who brought the appeal has contributed to undue delay of the proceeding.	<p>Provides responding parties, such as the City, with the ability to bring a motion to have an appeal dismissed where the appellant has caused unnecessary delay.</p> <p>The City does not support the proposed changes.</p>
Failure to comply with an order as grounds for dismissal	Addition of discretionary authority to the Tribunal to (on a motion or its own initiative) dismiss an appeal without a hearing if the Tribunal is of the opinion that a party has failed to meet an order of the Tribunal.	<p>Provides parties with the ability to bring a motion to have an appeal dismissed where the appellant has failed to meet a procedural order of the Tribunal.</p> <p>The City does not support the proposed changes.</p>

Proposed Change	Provincial Explanation of Change	Comments
Power to award costs against unsuccessful parties	Expansion of Tribunal's authority to award costs similar to a civil proceeding in which an unsuccessful party may be ordered to pay the successful party's costs on a motion or appeal proceeding.	<p>This could potentially result in cost awards being made against the City where it is unsuccessful in an appeal. However, it is yet to be seen how this new authority would be applied by the Tribunal.</p> <p>The City does not support the proposed changes.</p>
Prioritization of specific classes of proceedings	The Lieutenant Governor in Council may make regulations that prioritize the resolution of certain classes of proceedings.	Regulations may be passed that allow certain proceedings to be heard by the Tribunal in priority, or decisions issued in priority. A class of proceeding may be based on the type of development application or number of units, for example.
Prescribed OLT timelines	The Lieutenant Governor in Council may make regulations prescribing timelines with respect to steps taken by the Tribunal for specific classes of proceedings, but failure to meet those timelines do not invalidate proceedings. At the Minister's request, the Tribunal will report to the Minister.	Minister may require that the Tribunal report on the progress of certain proceedings.
Schedule 8 – Ontario Underground Infrastructure Notification System Act		
Proposed Change	Provincial Explanation of Change	Comments
	Proposed revisions include allowing the Minister of Public and Business Service Delivery to appoint the Chair of Ontario One Call's Board of Directors and appoint an administrator in certain circumstances.	No comment.

Schedule 9 – Planning Act		
Proposed Change	Provincial Explanation of Change	Comments
Appeal rights	<p>Limit third party appeals for all planning matters (Official Plans, Official Plan Amendments, Zoning By-laws, Zoning By-law Amendments, Consents and Minor Variances) to a “specified person” which is a proposed new definition. A “specified person” will still be required to satisfy the oral/written submission requirements in order to gain standing to appeal a decision.</p> <p>Appeal rights maintained for key participants (applicant, the Province, public bodies including indigenous communities, utility providers that participated in the process except where appeals have already been restricted.</p> <p>Limit on third party appeals would apply to any matter that has already been appealed to the Ontario Land Tribunal but has not yet been scheduled for a hearing.</p>	<p>Concerns with fully eliminating third party appeal rights. Suggest instead stronger and clearer criteria for determining frivolous and vexatious appeals be investigated to eliminate appeals that are not legitimate planning concerns. The appeal process should require the appellant to demonstrate proof that they have engaged the municipality in a fulsome way.</p> <p>Individuals who have filed an appeal in accordance with the <i>Planning Act</i> should retain their appeal rights.</p> <p>The City does not support the proposed changes to Bill 23 as first proposed.</p> <p>Note – Through proposed changes to Schedule 9 introduced by the Provincial Government on November 21, 2022, the elimination of third party appeal rights for Official Plans, Official Plan Amendments and Zoning By-law Amendments has been struck from Schedule 9.</p>
Restriction for residential units	<p>Additional term “parcel of urban residential land”.</p> <p>Official Plan Policies shall not prohibit:</p> <ol style="list-style-type: none"> 1. Two residential units in a detached house, semi-detached house or rowhouse on a parcel of urban residential land where there is one unit in an accessory structure; 2. Three residential units in a detached house, semi-detached house or rowhouse where there is no residential unit in an accessory structure; 3. One dwelling in an accessory structure where there is no more than two units in a detached house, semi-detached house or rowhouse. 	<p>The City has passed Zoning By-law Amendments to all former Municipal Zoning By-laws (Report PED22154) to allow for the conversion of existing dwellings to allow for a maximum of four units on a lot (including additional dwelling units – detached).</p> <p>With the new term “Parcel of urban residential land” the Rural Settlement Areas will require amendments to allow for conversions and a maximum of three units on a lot in accordance with the proposed regulations. Most rural properties are privately serviced and do not have capacity for accommodating additional dwelling units.</p>

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Restriction for residential units Continued	<p>Parking is restricted to one space per residential unit (under the “Restriction for Residential Uses” section.</p> <p>No appeal of policies/regulations to allow additional residential units.</p> <p>No minimum floor area for additional residential unit.</p>	<p>Hydrogeological and Storm Water Management studies will be required to determine constraints and whether the additional units can be serviced appropriately. As of right permissions for additional units will not allow for appropriate analysis to demonstrate the appropriate capacity is available on-site.</p> <p>The proposed changes minimize the City’s ability to investigate impacts of additional units on the City’s services and systems and the evaluation of the appropriateness for as of right permissions in both the Urban and Rural area.</p>
Public meeting - plans of subdivision	Remove the requirement for a statutory public meeting for draft plans of subdivision and make it optional.	<p>As proposed, these amendments may facilitate timely approvals and reduce the number of appeals to be considered by the Ontario Land Tribunal (OLT), the result is the diminishment of public engagement and consultation in the planning approvals process. However, no change has been proposed to the notice requirements of the <i>Planning Act</i> and a notice of a complete application will still need to be provided.</p> <p>The City does not support the proposed changes.</p>
Site Plan Control exemption for residential development up to 10 units	<p>Subject to subsection (1.3), the definition of “development” in subsection (1) does not include the construction, erection or placing of a building or structure for residential purposes on a parcel of land if that parcel of land will contain no more than 10 residential units.</p> <p>Exempt all aspects of site plan control for residential development up to 10 units.</p> <p>Scope the limit of site plan control to remove the ability to regulate architectural details and landscape design.</p>	<p>Currently there are several residential areas of the City subject to Site Plan Control to address issues of storm water, servicing, erosion and siltation control and tree removal. The process allows for site specific design discussions to satisfy these issues.</p> <p>This exemption will limit the City’s ability to manage and implement stormwater and servicing standards including low impact design in existing neighbourhoods.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Site Plan Control exemption for residential development up to 10 units Continued</p>	<p>A site plan control application submitted for approval prior to the date that Bill 23 comes into force is not subject to the new exclusions.</p>	<p>The City is currently allowing for small lot intensification in existing neighbourhoods which without oversight may result in major flooding and servicing issues. In the medium to long term this may limit the amount of new housing units that can be provided.</p> <p>Impacts to the City may include increased costs for emergency repairs and upgrades to existing stormwater and water and waste water infrastructure and limiting new development in areas where infrastructure is compromised.</p> <p>Adequate services must be ensured for all developments including those under 10 units. The Adequate Services By-law is part of the Zoning By-law. A process will need to be established that triggers review of adequate services through growth management and could be governed through the sewer/water/grading permit application. Fees for engineering review for complex applications, including stormwater management reports, water hydraulic analysis, and servicing studies will need to be reviewed. There could also be a requirement for an external works agreement to be triggered.</p> <p>A one-year transition period should be implemented to allow municipalities to develop plans and processes to address these concerns. Alternately the tools to allow municipalities to influence development to minimize flooding and ensure adequate services to neighbourhoods should be provided through enhancements to other legislation.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Site Plan Control exemption for residential development up to 10 units Continued</p>		<p>Further, there is a concern that a development could be proposed in a piecemeal fashion to avoid the requirement for site plan control (ie apply for 10 units in 2023; 10 in 2024 etc.), particularly for lands that are already pre-zoned.</p> <p>The legislation should be modified to prohibit the site plan exemption for this type of piecemeal development approach.</p> <p>The City does not support the proposed changes.</p>
<p>Site Plan Control – exemption for exterior features of buildings including sustainable design features</p>	<p>Section 41 Subsection 4(d) which allowed for municipalities to influence the exterior design of buildings is to be deleted.</p> <p>“4(d) matters relating to exterior design, including without limitation the character, scale, appearance, and design features of buildings, and their sustainable design, but only to the extent that it is a matter of exterior design, if an official plan and a by-law passed under subsection (2) that both contain provisions relating to such matters are in effect in the municipality;”</p>	<p>The quality of public spaces is defined by the quality of the buildings that surround and define them. High quality public spaces are important for economic development, community pride of place and general health.</p> <p>This is especially important in areas undergoing intensification.</p> <p>This proposed change will severely limit the City’s ability to influence the character of public spaces. Expert staff and the volunteers of the Design Review Panel will be limited in their ability to work together with developers and their architects in a flexible manner to develop innovative design solutions that satisfy City standards and build community pride while providing housing.</p> <p>The City is working to address climate change. Buildings and development are a major contributor to climate change. The ability of the City to work with developers, their architects, and engineers to influence the sustainable design features of new development and to implement new standards will be severely limited by this change.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Site Plan Control – exemption for exterior features of buildings including sustainable design features Continued</p>		<p>These changes may result in under performing public spaces, set back the municipality’s goals for addressing climate change and result in over all lower quality housing.</p> <p>Consideration should be given to maintaining this item to apply to developments with significant impacts such as buildings over 6 stories in height or including 30 or more units.</p> <p>Further, clarification is needed on the authority to address sustainable technologies at the Site Plan Stage; e.g. LIDs, green infrastructure etc. Subsection 2(d) of section 41(4) of the <i>Planning Act</i> is being removed, but this section deals with exterior design of buildings.</p> <p>The exemptions from site plan control being added under Bill 23 do not specifically cite sustainable infrastructure / technologies. Staff are of the opinion that sustainable technologies will still be reviewable through site plan control but need confirmation of this interpretation.</p> <p>Note – Through proposed changes to Schedule 9 introduced by the Provincial Government on November 21, 2022, matters relating to building construction required under a by-law referred to in section 97.1 of the <i>Municipal Act</i> may be permitted. This section of the <i>Municipal Act</i> permits by-laws respecting protection or conservation of the environment and requires these buildings to be constructed in accordance with prescribed provisions of the Ontario Building Code.</p> <p>The City does not support the proposed changes to Bill 23, as proposed and modified by Committee.</p>

Proposed Change	Provincial Explanation of Change	Comments
Aggregate applications	Remove the two year “time-out” period in respect of mineral aggregate operations to amend a new official plan, secondary plan or comprehensive zoning by-law, unless the private application is permitted to proceed by a resolution of Council.	<p>Proposal allows amendments to come forward immediately after approval of comprehensive policies and zoning and may result in potential increases in aggregate resource applications during these first two years.</p> <p>The City does not support the proposed changes.</p>
Ministerial amendment of Official Plan	Revised subsection 23(1) allows the Minister to amend an official plan if the Minister is of the opinion that the plan is likely to adversely affect a matter of provincial interest. Procedural options have been removed.	<p>Proposal removes the current options allowing the Minister to contact the local Council to advise of the issue and provide a Council an opportunity to resolve the issue. Proposal removes the ability of the Minister to request an OLT hearing on their own, or upon request of an individual. This change gives unilateral decision making to the Minister on matters of Provincial Interest, removes the ability of the municipality to engage with the minister to resolve issues and removes opportunity for an independent hearing at the tribunal on an issue.</p> <p>The City does not support the proposed changes.</p>
Community Benefits Charges	<p>Section 37(32) is amended to establish the inclusion of a ratio of new development floor area to total floor area existing on the site to calculate the maximum prescribed Community Benefits Charge.</p> <p>A new section 37(32.1) exempts the floor area for affordable units, attainable units and inclusionary zoning units from the total floor area under development.</p>	Currently, the <i>Act</i> provides that the amount of a Community Benefits Charge payable shall not exceed the prescribed percentage of the value of the land as of the valuation date. Currently the prescribed rate is 4% of the land value on the date a building permit is issued. Where development or redevelopment is occurring on a parcel of land with existing buildings or structures, the maximum charge would be calculated based on the incremental development only.

Proposed Change	Provincial Explanation of Change	Comments
Community Benefits Charges Continued		<p>Maximum charges of 4% would be reduced by the ratio of floor area for new development, to the total floor area on the site. The effect of the change would be a charge that is only attributed to the development occurring.</p> <p>This is likely to reduce the charges for larger sites where development is proceeding in phases, understanding that future phases would be subject also to CBC charges but calculated on land at the time of the issuance of the building permit.</p> <p>Similarly, the ratio of floor area attributed to affordable, attainable, or inclusionary zoning units to total floor area of the development would reduce the charge from the prescribed rate.</p> <p>The City does not support the proposed changes.</p>
Parkland Dedication	<p>Subsections 4.3 through 4.39 set out a framework for owners of land to identify land to be conveyed to satisfy requirements of a by-law passed under the section. Owners can appeal to the Tribunal if the municipality refuses the conveyance of the identified land. Developer has to provide lands to “prescribed requirements”.</p> <p>Alternative rate for parkland dedication is halved – 1/600 for land, 1/1000 for Cash in Lieu.</p> <p>Alternative rate looks at “net residential units” not total new (i.e. the removal is factored in).</p> <p>Capped at 10% of land value, 15% of a parcel of more than 5 ha (deletion of transit oriented community clause – caps now apply to all).</p>	<p>This may result in “pocket parks” being conveyed rather than larger neighbourhood parks as is the desire of the City and outlined in our planning documents. Smaller parks are a higher cost to maintain, do not allow for diversity of amenities in each park (size restrictions), do not contribute as fully to neighbourhood cohesion as a gathering place for the residents, and may result in lower quality parcels of parkland across the City. It may limit the ability of the City to develop recreational amenities due to size restrictions.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Parkland Dedication Continued</p>	<p>Exemptions for “affordable and attainable” units.</p> <p>Timing of land valuation is no longer at first building permit but based on value at time of site plan approval, or at time of rezoning.</p>	<p>Lands will be permitted to have easements, below grade infrastructure, etc. that will significantly impede the ability to update the parkland over time with amenities that are desired. Rather than a blanket change, the City as owner and operator should be the decision maker on a case by case basis. These changes will encumber parkland and be potential liabilities which will impede how the City designs and programs parks.</p> <p>The City does not support the proposed changes.</p>
<p>Major Transit Station Areas zoning</p>	<p>Proposed changes would require municipalities to amend their zoning by-laws to conform with official plan policies for Protected Major Transit Station Areas (establishment of minimum densities and heights) within one year of the official plan policies coming into effect. Zoning by-laws to implement PMTSA policies would only be subject to appeal if the municipality fails to enact zoning within one year of the relevant official plan policies coming into effect.</p>	<p>Currently, there are limited appeal rights of zoning by-law amendments enacted to implement approved official plan amendments establishing Protected Major Transit Station Areas (PMTSA). Those appeal rights will continue provided the zoning by-law amendments are adopted within one year of the subject official plan amendments coming into force. Failure to adopt implementing zoning would open up a future implementing zoning by-law amendment appeal.</p> <p>In Hamilton, the B-Line LRT corridor including areas around major transit station areas are already pre-zoned for higher densities. Studies to identify PMTSAs are underway with the intent to have MTSA and PMTSAs shovel-ready with additional zoning updates in place, as needed. In Hamilton, the proposed requirement will have no effect, however, many municipalities may be challenged to complete zoning within a year of policy coming into effect. Appeals to zoning would create further delay in implementing approved PMTSA policies.</p> <p>The City does not support the proposed change.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Inclusionary Zoning (ERO Posting 019-6173)</p>	<p>The <i>Planning Act</i> and O. Reg. 232/18 set out the legislative and regulatory requirements for municipal implementation of inclusionary zoning, including the authority for municipalities to adopt inclusionary zoning official plan policies and make inclusionary zoning by-laws.</p> <p>The proposed change to O.Reg. 232/18 would set an upper limit of 5% of the total number of units in a development that can be required to be affordable as part of inclusionary zoning.</p> <p>A maximum period of 25 years of which the inclusionary zoning units would be required to remain affordable is also proposed.</p> <p>Standards would be added for determining the price or rent chargeable for affordable housing units required under IZ.</p> <p>New sections 4.1, 4.2 and 4.3 specify that <i>Affordable housing</i> (generally defined as being priced at no greater than 80% of the average price/rent in the year a unit is rented or sold), <i>attainable housing</i>, and inclusionary zoning units are exempt from DC, CBCs and parkland dedication.</p> <p>“Attainable Residential Unit” is a new term being introduced:</p> <p>Section 4.1 (1) “attainable residential unit” means a residential unit that meets the criteria set out in subsection (4).</p>	<p>Beyond the prescribed minimum requirements, municipalities have flexibility and discretion to tailor their inclusionary zoning policies to their local context. Currently under the regulation, municipalities have the discretion to establish an affordability period, to determine the percentage of total units to be set aside as affordable, and to develop an approach to determining affordable prices/rents for inclusionary zoning units.</p> <p>City of Hamilton is currently undertaking studies to support the development of an Inclusionary Zoning framework and by-law. This change will reduce the scope of the studies as the affordable housing scenarios being considered for Hamilton will be reduced.</p> <p>An alternative approach would be to have the 5% set-aside rate and the 25-year affordability term apply to all municipalities. This would promote density and equity along higher-order transit corridors, creating a level playing field for standards across the province and reduce the burden of work and resources spent on establishing an inclusionary zoning policy framework.</p> <p>Further clarity is needed to understand how Parkland Dedication and Community Benefit Charges will be applied.</p> <p>Regarding exemptions, alternative revenue sources will be needed to accompany these exemptions as sources to pay for the municipal servicing infrastructure, soft services, and greenspace is still needed to build complete communities.</p>

Proposed Change	Provincial Explanation of Change	Comments
Inclusionary Zoning (ERO Posting 019-6173) Continued	Section 4.1 (4) Attainable residential unit A residential unit shall be considered to be an attainable residential unit if it meets the following criteria: 1. The residential unit is not an affordable residential unit. 2. The residential unit is not intended for use as a rented residential premise. 3. The residential unit was developed as part of a prescribed development or class of developments. 4. The residential unit is sold to a person who is dealing at arm's length with the seller. Such other criteria as may be prescribed.	It is clear that an "attainable residential unit" is different than an "affordable residential unit", but clarity is still needed on what a prescribed development or class of developments is. This is essential in determining how an "attainable residential unit" is defined. The City does not support the proposed changes.