



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	June 13, 2023
SUBJECT/REPORT NO:	Bill 97, Proposed <i>Helping Homebuyers, Protecting Tenants Act, 2023</i> and Proposed Provincial Planning Statement, 2023 (PED23145) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Charlie Toman (905) 546-2424 Ext. 5863 Jennifer Allen (905) 546-2424 Ext. 4672
SUBMITTED BY:	Steve Robichaud Director of Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That Council adopt the submissions and recommendations as provided in Report PED23145 regarding Schedules 3, 4, 5 and 6 of proposed Bill 97, *Helping Homebuyers, Protecting Tenants Act, 2023*;
- (b) That Council adopt the submissions and recommendations as provided in Report PED23145 regarding the proposed new Provincial Planning Statement, 2023;
- (c) That the Director of Planning and Chief Planner be authorized and directed to confirm the submissions made to the Province attached as Appendix “A” to Appendix “D” to Report PED23145;
- (d) That staff report back to Council should Bill 97, *Helping Homebuyers, Protecting Tenants Act, 2023*, and the proposed new Provincial Planning Statement be proclaimed on any required staffing, process, fee and By-law changes necessary to implement the proposed changes;
- (e) That the Director of Planning and Chief Planner and the City Solicitor be authorized to make submissions on *Bill 97, Helping Homebuyers, Protecting Tenants Act, 2023*, the proposed Provincial Planning Statement, 2023 and any

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

associated regulations consistent with the comments and concerns raised in Report PED23145.

EXECUTIVE SUMMARY

On April 6, 2023, Bill 97, *Helping Homebuyers, Protecting Tenants Act, 2023* was introduced at the Ontario Legislature. If enacted, this Bill would make amendments to the *Building Code Act, 1992*, the *City of Toronto Act, 2006*, the *Development Charges Act, 1997*, the *Ministry of Municipal Affairs and Housing Act*, the *Municipal Act, 2001*, the *Planning Act* and the *Residential Tenancies Act, 2006*. On the same day the Province released a new Provincial Planning Statement (PPS) adapted from, and replacing the Provincial Policy Statement, 2020 and Growth Plan for the Greater Golden Horseshoe, 2019 as amended (Growth Plan). Combined, the proposed changes overhaul Provincial legislation and policies governing land use planning in Ontario.

Through the Environmental Registry of Ontario (ERO), the Government of Ontario has requested comments on:

- Proposed *Planning Act, City of Toronto Act, 2006, Development Charges Act* and *Ministry of Municipal Affairs Act* changes through Bill 97, the proposed *Helping Homebuyers, Protecting Tenants Act, 2023*;
- Proposed new regulations for Site Plans for residential developments of 10 or fewer units through Bill 97: the proposed *Helping Homebuyers, Protecting Tenants Act, 2023*; and,
- A proposed Provincial Planning Statement that takes policies from *A Place to Grow* and the Provincial Policy Statement

The ERO bulletin also requested comments on changes to the *Building Code Act, 1992* and the *Residential Tenancies Act, 2006*, including changes to rental rules related to Air Conditioning, Building Code fees, changes intended to help protect tenants from bad faith renovation evictions, timeframe for occupancy for landlord's own use evictions, maximum fines for offenses under the act and amendments to require a standard form of rental repayment agreement under the Landlord and Tenant Board. Note that this Report does not include all comments respecting changes to the *Residential Tenancies Act, 2006* which will be submitted to City Council under a separate communication. The purpose of this Report is to provide information on the changes proposed to be made and to seek Council adoption of City Staff's comments to the Province.

It is understood that the legislative changes through Bill 97 combined with the new PPS are generally intended to help address Ontario's housing crisis and to increase housing starts to reach the Province's goal of 1.5 million new homes by 2031. It is important to note that the legislative and policy changes proposed differs from recent legislation adopted by the Government of Ontario through Bill 23 and 109 in that the changes

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: Bill 97, Proposed *Helping Homebuyers, Protecting Tenants Act, 2023* and Proposed Provincial Planning Statement, 2023 (PED23145) (City Wide) - Page 3 of 15

mostly impact when and how Municipalities plan for future growth; whereas, the previous legislation impacted how Municipalities consider development applications.

While City staff support the increase in housing supply as a measure to address the current housing crisis, overall the proposed legislation and PPS are contrary to balanced decision making, protection of the natural environment, employment lands and agricultural lands, diminish the role of local participation in land use planning and represent a significant shift away from the policy led planning system in Ontario . As such, City staff have several areas of concern with the proposed legislative changes and new PPS which are intended to provide for increased flexibility but will have the unintended consequence of creating more uncertainty. These include:

- Reducing the required justification and direction for settlement area expansion;
- Reducing emphasis on residential intensification and development in locations that support transit;
- Increasing opportunities for rural residential lot creation in rural and agricultural areas;
- Weakening restrictions on conversion of Employment Lands and making it more challenging to designate Employment Lands;
- Reducing land use compatibility criteria for sensitive land uses near Major Facilities;
- Weakening Climate Change policies;
- Removing existing Natural Heritage System policies with the potential they will be replaced with downgraded policies (i.e. less protection); and,
- Allowing Minister Zoning Orders to exempt Provincial plans and policies.

The deadline for comment on Schedules 2, 4 and 6 of Bill 97 was May 6, 2023, the deadline for comment on new Site Plan regulations under Bill 97 was May 21, 2023 and the deadline for comment on the proposed PPS was June 5, 2023 but has been extended to August 4, 2023.

Given the timing, staff comments contained in Appendix “A” to Appendix “C” attached to Report PED23145 have been submitted to the Province. With the extension of the commenting deadline on the proposed PPS to August 4, 2023, the City can add or revise the comments contained in Appendix “D” attached to Report PED23145. If the recommendations of this Report are approved by Council, the Chief Planner will notify the Province that the submissions that were made have been adopted by Council for the City of Hamilton and of any changes to staff comments as a result of Council’s consideration of the matter.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

Alternatives for Consideration – See Page 14

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: *Bill 97* and the proposed PPS will have financial implications on the City, largely related to long term planning. The degree and magnitude of the financial implications are not fully known at the time of preparation of this report. Staff will continue to monitor, analyze and report back to Council as necessary.

Staffing: At this time, *Bill 97* and the proposed PPS only proposes legislative changes. As such there are no staffing implications at this time. However, if *Bill 97* and the proposed PPS are enacted as currently drafted, there may be staffing resourcing implications associated with the changes.

Legal: Legal Services and the Planning Division will continue to monitor the status of Schedules 3, 4, 5, 6, and 7 of *Bill 97* and the proposed PPS and report back where necessary with recommendations for the implementation of *Bill 97* and proposed PPS, if enacted.

HISTORICAL BACKGROUND

Over the last number of years, the Provincial Government has introduced various legislative changes which although including some positive changes, have generally diminished the land use planning system in Ontario; as outlined below:

- *Bill 139 (2017)* - established the Ontario Land Tribunal;
- *Bill 66 (2019)* - amendments related to the ‘open-for-business planning by-law’;
- *Bill 108 (2019)* - changes to processes, heritage and appeals;
- *Bill 276 (2021)* - changes to subdivision control;
- *Bill 197 (2021)* - changes to site plan control and MZO’s;
- *Bill 13 (2021)* - additional delegated authority from Council to staff;
- *Bill 109 (2022)* - fee refunds for applicants for certain development applications; and,
- *Bill 23 (2022)* – amendments related to increasing the supply of housing.

Bill 97 passed its first reading on April 6, 2023, was subject to second reading on April 20, 2023, April 26, 2023, May 10, 2023. Hearings on *Bill 97* and clause-by-clause consideration of *Bill 97* by the Standing Committee on Heritage, Infrastructure and Cultural Policy occurred on May 10 to 11, 2023 and May 24, 2023 respectively.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2020)

The Provincial Planning Policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement. It provides municipal governments with the direction and authority to guide development and land use planning through official plans, secondary plans and zoning by-laws. The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with policy statements and plans issued by the Province.

The Government of Ontario is proposing to replace the Provincial Policy Statement, 2020 with the new Provincial Planning Statement. Similar to the current framework, the proposed Provincial Planning Statement will require that all municipal land use decisions affecting planning matters be consistent with policy statements and plans issued by the Province.

Growth Plan for the Greater Golden Horseshoe (2019)

The Growth Plan for the Greater Golden Horseshoe is a provincial plan which provides direction for managing growth in Ontario to the year 2051. The *Planning Act* requires all municipal decisions to conform to all provincial plans.

The Government of Ontario is proposing to repeal the Growth Plan and carry forward some of its policies respecting strategic growth areas and density targets to 29 “large and fast growing” municipalities across Ontario into the new PPS. However, municipal official plans and land use planning decisions will no longer have the more stringent requirement of conformity to those policies.

RELEVANT CONSULTATION

Staff from within the Planning, Growth Management, Housing Services, Climate Change Initiatives, Indigenous Relations, Transportation Planning, Public Works, Finance, Economic Development and Legal Services were consulted in the drafting of this report, recommendations and appendices.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

For the last 30 plus years, the Provincial Government’s direction has been a policy led planning framework with a deliberate focus on balancing various competing objectives when making planning decisions. Specifically, through the Provincial Policy Statement, Growth Plan and Greenbelt Plan, a policy framework has been created that requires Municipalities to plan for new population and employment growth in a manner that

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

protects its natural heritage systems and agricultural systems while also considering the long term economic, social, health and financial implications of growth on communities.

Bill 97 and the proposed PPS continues the Government of Ontario's departure from this established planning framework towards pursuing a market based response to the housing crises.

Overall, the proposed legislative changes and new PPS are contrary to balanced decision making, protection of the natural environment and agricultural lands, building complete communities, limiting urban sprawl through intensification, and enabling local participation in decision making.

1.0 Provincial Planning Statement

The proposed PPS includes numerous changes from the current Provincial Policy Statement, 2020 and the Growth Plan. As the proposed PPS requires that all municipal decisions on planning matters be consistent with its policy direction and the Growth Plan requires all municipal decisions conform to the Growth Plan, the implications of these changes are far reaching. City staff have summarized the areas of land use planning impacted below with detailed analysis and staff comment on the proposed changes included in Appendix "D" attached to Report PED23145.

1.1 Municipal Comprehensive Reviews and Long Range Planning

The proposed PPS would remove the requirement for a Municipal Comprehensive Review (MCR) before a municipality can expand its urban boundary or convert employment lands to other uses. The Provincial Policy Statement, 2020 and Growth Plan requires municipalities demonstrate through, among other things, a Land Needs Assessment (LNA) that there is a need to expand its urban boundaries to accommodate future growth that can't be accommodated through intensification.

The proposed PPS could allow private landowners to submit an Official Plan Amendment to expand its urban boundary; whereas, currently an MCR must be municipally initiated if the proposed expansion is greater than 40 hectares.

In place of these requirements, the proposed PPS establishes criteria that municipalities *should* consider before expanding its urban boundaries and makes no reference to intensification. Removal of the clear directive policies from current Provincial Policy Statement and Growth Plan and replacement with policies that do not require adherence will cause confusion for municipalities.

The removal of the requirement for demonstration of need does not support the efficient use of land through infill and intensification first, nor does it support the efficient use of

existing municipal infrastructure and public services. In addition, opening up the ability of private landowners to apply for boundary expansions at any point of in time, which may be subject to Ontario Land Tribunal appeals, further erodes the City's ability to make land use decisions based on public engagement, local conditions and municipal priorities and creates uncertainty in terms of the design and delivery of both "hard" infrastructure and community services required for complete communities.

Another significant concern is that the proposed PPS does not carry forward specific policies and requirements of the Growth Plan including minimum intensification targets, employment land protections, enhanced settlement boundary expansion requirements as well as detailed policies that support urban growth centres, public infrastructure, natural heritage systems and transit planning among others.

1.2 Rural Lands and Prime Agricultural Areas

Both the proposed PPS and current Provincial Policy Statement, 2020 establish specific policies for Prime Agricultural Areas¹ and Rural Lands². The proposed PPS includes several changes from the current Provincial Policy Statement, 2020 to both areas to increase residential land development. These include:

- Allowing up to two subordinate dwellings to a primary farm dwelling in Prime Agricultural Areas dwellings on each lot designated Prime Agricultural Area;
- Allowing up to three residential lots within Prime Agricultural Areas where currently only surplus farm dwelling severances are permitted;
- Removing the ability of municipalities to have more restrictive Prime Agricultural Area lot creation policies;
- Allowing multi-lot residential subdivisions on rural lands;
- Removes policy directing lot creation on rural lands to Rural Settlement Areas; and,
- Removes policy that limits residential lot creation that is "locally appropriate" on rural lands.

With these changes it is important to note that the majority of Hamilton's Prime Agricultural Areas and Rural Lands are located within the Greenbelt Plan and designated Protected Countryside which maintains more restrictive lot creation policies than what is being proposed. The proposed PPS states that the Provincial Plans (e.g. Greenbelt Plan) takes precedence over the PPS. As a result and as currently worded, the changes proposed by the Province would apply to approximately 1,700 hectares of land south of the Hamilton. Staff note that without the Greenbelt Plan, the proposed PPS could result in approximately 2,000 properties becoming eligible for new residential

¹ Prime Agricultural Areas are lands where Canada Land Inventory Class 1, 2 and 3 predominate.

² Rural Lands are lands located outside Settlement Areas and which are outside Prime Agricultural Areas.

lot creation within the Rural Hamilton Official Plan within both rural lands and prime agricultural areas, creating 4,000 new rural residential lots and the conversion of between 1,600 to 2,400 hectares of rural and prime agricultural land to residential uses³ which is equal to the net developable land added to the City's urban area as a result of the Ministerial changes to Official Plan Amendment No. 167.

Based on a 2022 Farm Credit Canada analysis, agricultural land in the rural areas of Hamilton and the surrounding communities sells for up to \$30,000/acre. New non-farm residential lots would sell for significantly more, and thereby put upward pressure on lands values which would impact the ability of the agricultural community to acquire land to expand farm operations.

City staff have significant concerns with the proposed changes which have been echoed by other rural municipalities, the Ontario Federation of Agriculture and several other agricultural organizations. If enacted, a proliferation of agricultural severances would:

- Remove productive agricultural lands;
- Severely limit the adaptability for agriculture in the future by increasing lot fragmentation and limiting future livestock operations based on Minimum Distance Separation calculations, especially if multiple severances creates a cluster of residential properties;
- Negatively impact the City's groundwater resources by increasing the number of residential septic systems;
- Increase demand for municipal services that are inefficient to extend to agricultural areas (e.g. police, fire, health care, schools, active transportation), negatively impacting the City's finances;
- Increase real estate speculation for agriculture properties based on their residential development potential, increasing the price of farmland and limiting the ability of new family farms to be established; and,
- Increase the potential for land use conflicts between rural residential uses and agricultural uses.

On May 29, 2023 the Minister of Municipal Affairs and Housing sent a letter to the Beef Farmers of Ontario (see Appendix "E" attached to Report PED23145) that the intention behind the increased permission for residential lot creation within prime agricultural areas was to allow for retirement lots and succession planning on family farms and that any ambiguity will be "clarified, eliminated and resolved". At this time, the Government of Ontario has not released a revised version of the proposed PPS and City staff will continue to monitor and respond to subsequent requests for comment by the Province.

³ Calculation is based on the number of lots that have at least 5 hectares of land zoned Agricultural (A1) and Rural (A2) Zone outside of Specialty Crop Areas and assumes a minimum residential lot size of between 0.4 to 0.6 hectares.

1.3 Employment Areas

In addition to removing the requirement for municipalities to undertake an MCR before removing lands from designated Employment Areas as defined in Official Plans, the proposed PPS redefines the uses that are part of Employment Areas. The new PPS proposes to exclude institutional and commercial uses, including retail and office uses, unless those institutional or commercial uses are associated with the primary employment area use. The revisions to the definition of employment area matches corresponding amendments to the *Planning Act* under Bill 97.

The new definition of Employment Area proposed in both the *Planning Act* amendment and the new PPS is awkward and needs some clarification to determine if the definition is applied at the site specific level or across the entire employment area. Staff believe the intent is that the policies restricting specific uses are to be applied on a site specific basis which would create very strict areas for heavy manufacturing types of employment, only permitting office, retail and commercial uses associated with the employment use. Areas that are considered as business parks that have permissions for a wider range of uses like office uses, or areas in business parks that contain commercial or retail uses supportive to the employment use, would not be permitted.

While the new PPS speaks to supporting a modern economy, the proposed definition does not reflect modern integrated economic activities that are occurring in employment areas, such as clustering of different employment uses that provide synergies – often including research and development uses, employee supportive uses such as collaborative spaces for learning and training, and retail, office and commercial uses that provide services and support the employees within employment areas. Modern employment areas are developing as complete ‘employment’ communities in response to the changing economy. There is also uncertainty on the impact of this policy on the film industry and the presence of film studios and related uses within employment areas.

There are 4,468 hectares of land zoned Industrial in Zoning By-law No. 05-200 within designated Employment Lands in the Urban Hamilton Official Plan. Of this total, approximately 18% or 812 hectares are zoned based on the narrow definition proposed in the PPS. As such, the remaining 82% or 3,656 hectares, may meet the Provincial definition and would therefore need to be rezoned to a commercial or quasi commercial zone and would be subject to pressures for conversions to residential uses or would have to respond to possible land use conflicts if adjacent lands were converted.

Staff will need to review existing Employment Areas policy with respect to the restriction on standalone office buildings, notably within the Business Park designation. It is intended that the Employment Area – Business Parks designation allow for employment supportive uses, like offices, to develop as prestige employment areas.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

1.4 Land Use Compatibility

The proposed PPS reduces protections that help ensure the long term viability for Major Facilities by removing the following criteria currently used to determine if the sensitive use may be permitted:

- That there is an identified need for the proposed use; and,
- That alternative locations for the proposed use have been evaluated and there are no reasonable alternative locations.

The removal of these criteria in the PPS allows sensitive land uses to encroach to Major Facilities because they “can” and doesn’t consider whether they “should”, “need to” and the associated implications for existing and planned uses on adjacent lands.

City staff have concerns that the relaxation of these protective measures is likely to restrict and frustrate the ability of major facilities to expand and/or redevelop over the long term (e.g. 20+ year horizon) to meet future demands, compete economically at a national or international level and adjust with evolving technologies.

1.5 Natural Heritage Systems

The Natural Heritage System within the Province has been delineated based on a “systems” approach recognizing that features and their functions are important. This is based on the concept of Landscape Ecology and has been in place in the Province since 2005 that recognizes the need to balance growth and the natural environment to foster a healthy population. The City implements a systems approach through mapping and policies in its Official Plans to protect and restore these features and natural functions as a permanent environmental resource for the community.

The proposed PPS proposes to introduce new Natural Heritage policies and definitions entirely. The proposed PPS notes that these policies “under consideration” and once policies and definitions are ready for review and input, they will be made available through a separate posting on the ERO. City staff have highlighted the importance of strong natural heritage policies as part of an integrated land use planning framework. Staff cannot fully evaluate the proposed PPS without being able to review changes to the proposed PPS Natural Heritage System policies.

1.6 Planning for Climate Change

Planning for climate change within several sections, including land use pattern, energy conversation, air quality, public infrastructure and healthy communities’ policies is proposed to be removed.

The City of Hamilton has declared a climate change emergency and is undertaking many initiatives to support healthy, resilient communities including the Climate Action Strategy, Community Energy and Emissions Plan, Urban Forest Strategy and Biodiversity Action Plan. The changes to the proposed PPS threaten the City's ability to incorporate and implement these initiatives through its Official Plan policies by increasing the potential for Ministry of Municipal Affairs and Housing (MMAH) modifications and by weakening the City's position to defend its policies at OLT hearings.

1.7 Local Decision Making

The proposed PPS removes the existing Provincial Policy Statement, 2020 policy that "The official plan is the most important vehicle for implementation of this Provincial Policy Statement. Comprehensive, integrated and long-term planning is best achieved through official plans." In addition, the proposed PPS specifically restricts municipalities from establishing more restrictive policies than what is proposed respecting permissions for sensitive land uses within certain employment areas and residential lot creation within Prime Agricultural Areas.

City staff have strong concerns with the removal of this policy which deemphasizes and minimizes the critical role that municipal official plans have in creating clear and detailed land use planning goals and policies based on extensive public engagement and local conditions.

1.8 Indigenous Consultation

The proposed PPS include stronger language around engaging with Indigenous communities. Specifically, it states municipalities shall "undertake early engagement with Indigenous communities and coordinate on land use planning matters to facilitate knowledge-sharing, support consideration of Indigenous interests in land use decision-making and support the identification of potential impacts of decisions on the exercise of Aboriginal or treaty rights." The proposed PPS also states that municipalities must engage with Indigenous communities early in the process when identifying, protecting and managing archaeological resources.

The City of Hamilton has adopted the Urban Indigenous Strategy (UIS) which identifies meaningful consultation with Indigenous people as a key principle and includes actions to improve meaningful consultation with Indigenous residents and First Nations communities on municipal projects, plans and approvals. Similarly, the City has an approved Archeology Management Plan (AMP) which includes a First Nations Consultation and Engagement Protocol which speaks to involving indigenous communities as early as possible on matters related to Indigenous archaeology. Both the UIS and AMP appear to align with the proposed PPS.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

2.0 Bill 97

Bill 97 proposes amendments to the *Building Code Act, 1992*, the *City of Toronto Act, 2006*, the *Development Charges Act, 1997*, the *Ministry of Municipal Affairs and Housing Act*, the *Municipal Act, 2001*, the *Planning Act* and the *Residential Tenancies Act, 2006*. In addition, the Province has requested comments on proposed regulations associated with the legislative amendments respecting Site Plan Control and Rental Housing replacements. City staff have summarized the areas of land use planning impacted below with a detailed analysis of the proposed changes is included in Appendix “A”, Appendix “B” and Appendix “C” attached to Report PED23145.

2.1 Allowing Minister Zoning Order to Exempt Private Lands from Provincial Plans and Policies

Bill 97 proposes to amend the *Planning Act* to give the Minister of Municipal Affairs and Housing to exempt certain subsequent approvals required to establish uses permitted by Minister’s zoning orders from having to align with provincial plans or policies.

City staff strongly oppose this amendment. Provincial plans and policies are expected to provide a framework of policies which give direction on provincial interests. It is unclear what scenario would constitute a zoning order that does not comply with the policies of provincial and official plans; however, as worded this change would allow the Minister to approve new urban developments within rural areas including Greenbelt areas.

2.2 Rental Replacement Regulations

Bill 97 amends the *Municipal Act* to allow the Minister to make regulations respecting a municipalities ability to require owners of land to make payments and provide compensation for the removal of rental housing.

The City is currently conducting a review of the planning policy and process framework around conversions and demolitions of rental housing. 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* 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.

Overall, staff have concerns with any limits imposed by the Province through regulations that restrict a Municipality’s ability to protect its existing rental housing stock. The City of Hamilton has seen historically low vacancy rates and rapidly increasing rental rates over recent years which in turn has increased homelessness and residents in core housing need. The City has concerns with any regulations that may limit the City’s ability to develop and implement creative solutions to address this significant issue.

2.3 Zoning By-law Amendment and Site Plan Control Application Fee Refunds

Bill 97 amends the *Planning Act* to delays the requirement for municipalities to refund zoning by-law application and site plan application fees so that it only applies to applications submitted on or after July 1, 2023 instead of January 1, 2023. In addition, Bill 97 gives the Minister the authority to exempt municipalities from the fee refund provisions if needed. It is unclear in which scenarios the fee may be waived however this could be used to provide flexibility for the applicant to opt to work with the municipality to come to an agreement on a proposal outside of the prescribed timelines.

The City has revised the process for reviewing development in response to the required fee refunds implemented through Bill 109. This includes changes to the submission requirements to ensure all the necessary information has been provided to staff in order for a decision to be made by council within the prescribed timelines. City staff are currently adhering to this new review timeline in processing development applications that were received after January 1, 2023.

While the City of Hamilton has previously commented that the City does not support the fee refunds implemented through Bill 109, City staff support the proposed change to defer the date when the fee refunds will apply.

2.4 Site Plan Control

A recent amendment to the *Planning Act* under Bill 23 was to exclude municipalities from requiring Site Plan Control for residential developments of 10 dwellings or less. Bill 97 further amends the *Planning Act* to now municipalities to require Site Plan Control for residential developments with 10 dwellings or less where it is located within 120 metres of a railway line or 300 metres of a shoreline.

Generally, City of Hamilton staff are supportive of site plan control being applied to residential developments of 10 units or less on a single lot in the identified circumstances. Site plan control is an effective tool to manage and review development to ensure development is designed to minimize negative impacts.

The proposed prescribed areas apply to a very large area in City of Hamilton. Approximately 17,059 properties zoned residential in the City of Hamilton are located either 120m from the shoreline or 300m from a railway line. A full site plan control may not be warranted and a scoped, minor process dealing with only specific issues relating to impacts on the shoreline and noise from the railway should be enacted. However, based on the geographic impacts of this change, to include some areas of the City, but not other areas (even when the development proposed is identical), thereby create different requirements causing confusion. Further analysis of the merits of this change is warranted.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

If the City of Hamilton decides to use site plan control for residential developments of 10 or fewer units on a single lot in the noted specific circumstances, a new Site Plan By-law must be prepared and approved, as well as a new process for a Minor Site Plan to deal with the specific issues relating to shoreline and railway lines. Planning staff, are currently reviewing the proposed change and upon proclamation of *Bill 97*, staff will report to Council with a recommendation on this matter.

2.5 Interim Control By-laws

The purpose of an Interim Control By-law (ICBL) is to prohibit development in a defined area for a period of one year to allow a necessary review or study to be undertaken prior to any new development. In recent years the City of Hamilton has issued ICBLs in conjunction with the Waterdown Community Node Secondary Plan and Pleasantview Land Use Study.

Currently the initial adoption of an ICBL only be appealed by the Minister within 60 days of the notice of passing. Under the proposed Bill 97, any person or public body who was given notice of passing can appeal the interim control by-law within 50 days.

Staff anticipate that if enacted, appeals would be received from land owners following the passing of new interim control by-laws as they would want to avoid prohibitions or restrictions on the development of their properties regardless of the broader community initiative to which the ICBL is related.

3.0 Next Steps

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

ALTERNATIVES FOR CONSIDERATION

Council may amend the staff-level comments attached as Appendix “A” to Appendix “D” to Report PED23145 or supplement the staff-level comments with additional comments.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

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

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

Our People and Performance

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

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED23145 - City of Hamilton Staff Submission on Schedules 3, 4, 5, 6, and 7 of Bill 97– *More Homes Built Faster Act, 2023*

Appendix “B” to Report PED23145 - City of Hamilton Staff Submission on new regulation under the *Planning Act* of Bill 97– *More Homes Built Faster Act, 2023*

Appendix “C” to Report PED23145 - City of Hamilton Staff Submission on Municipal Rental Housing Replacement By-laws, ORR – Proposal 23-MMAH005

Appendix “D” to Report PED23145 - City of Hamilton Staff Submission on the Proposed Provincial Planning Statement, 2023

Appendix “E” to Report PED23145 - MMAH Letter to Beef Farmers of Ontario dated May 29, 2023.

CT/JA:sd