



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

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| TO: | Chair and Members Planning Committee |
| COMMITTEE DATE: | September 5, 2023 |
| SUBJECT/REPORT NO: | Proposed Provincial Planning Statement, 2023 – Natural Heritage Policies (PED23185) (City Wide) |
| WARD(S) AFFECTED: | City Wide |
| PREPARED BY: | Jennifer Allen (905) 546-2424 Ext. 4672 |
| SUBMITTED BY: | Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department |
| SIGNATURE: | |

RECOMMENDATION

- (a) That Council adopt the submissions and recommendations as provided in Report PED23185 regarding the proposed natural heritage policies within the proposed new Provincial Planning Statement, 2023;
- (b) That the Director of Planning and Chief Planner be authorized and directed to confirm the submissions made to the Province attached as Appendix “A” to Report PED23185;
- (c) That the Director of Planning and Chief Planner and the City Solicitor be authorized to make submissions on the proposed natural heritage policies of the proposed new Provincial Planning Statement, 2023 and any associated regulations consistent with the comments and concerns raised in Report PED23185.

EXECUTIVE SUMMARY

On April 6, 2023, the Province released a new Provincial Planning Statement adapted from, and replacing the Provincial Policy Statement, 2020 and Growth Plan for the Greater Golden Horseshoe, 2019 as amended (Growth Plan). At that time, the policy document removed all existing natural heritage policies and noted they were still under

consideration by the Province. The City prepared comments on the proposed Provincial Planning Statement, which was presented and endorsed by City Council through Report PED23145 on June 21, 2023 and submitted to the Province.

On June 16, 2023, the Province released a revised version of the proposed Provincial Planning Statement with the natural heritage policies. The existing natural heritage policies within the Provincial Policy Statement, 2020 are proposed to be carried forward with no text changes. The proposed Provincial Planning Statement includes revisions to the definition of *Negative Impacts* and *Significant* which are discussed in this Report. It also included a revision to the definition of *Natural Heritage Features and Areas* but the Province has subsequently removed this change. Overall, the proposed Provincial Planning Statement carries forward the same approach for identifying and protecting natural heritage systems that has been in place in the Province since 2005.

The deadline for comment on the proposed Provincial Planning Statement including the newly release natural heritage policies was August 4, 2023, extended from June 5, 2023. Staff comments on the proposed natural heritage policies have been submitted to the Province and are contained in Appendix “A” attached to Report PED23185. 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.

As discussed in Report PED23145, the Province had signalled that they were going to revisit the lot creation policies within Prime Agricultural Areas; however, to date no additional revisions to the proposed Provincial Planning Statement have been released.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The proposed Provincial Planning Statement 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 this time. Staff will continue to monitor, analyze and report back to Council as necessary.

Staffing: At this time, the proposed Provincial Planning Statement only proposes legislative changes and there are no staffing implications at this time. However, if the proposed PPS is 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 the proposed Provincial Planning Statement and report back where necessary with recommendations for the implementation, 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:

- Bill 108 (2019) (FCS19057(a) / LS19023(a)) - changes to processes, heritage and appeals;
- Bill 276 (2021) (PED21139) - changes to subdivision control;
- Bill 13 (2021) (PED21220) (PED22112(b)) - additional delegated authority from Council to staff;
- Bill 109 (2022) (PED22112(b)(c)(d)) - fee refunds for applicants for certain development applications;
- Bill 23 (2022) (PED22207) – amendments related to increasing the supply of housing; and,
- Bill 97 (2023) (PED23145) – amendments to Minister powers, definition of employment and other procedural changes.

On June 21, 2023 Council ratified the submissions made to the Province regarding Bill 97, Proposed Helping Homebuyers, *Protecting Tenants Act*, 2023 and Proposed Provincial Planning Statement attached as Appendix “A” to Appendix “D” to Report PED23145.

Staff comments identify several areas of concern with the proposed Provincial Planning Statement including:

- 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; and,
- Allowing Minister Zoning Orders to exempt Provincial plans and policies.

The City is of the opinion the proposed Provincial Planning Statement is contrary to balance decision making, the protection of the natural environment, employment lands and agricultural lands, diminish the role of local participation in land use planning and represents a significant shift away from the policy led planning system in Ontario.

While the City of Hamilton supports the increase in housing supply as a measure to address the current housing crisis, the proposed Provincial Planning Statement provides increased flexibility which will have unintended consequences and create more uncertainty for land use planning.

These submissions did not include comments on the newly released natural heritage policies which have been submitted separately and are attached as Appendix “A” to Report PED23185.

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 PPS 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. The existing natural heritage policies in the Growth Plan are not proposed to be included in the proposed Provincial Planning Statement.

RELEVANT CONSULTATION

The Senior Leadership Team and staff from within the Planning, Growth Management, Climate Change Initiatives, Indigenous Relations, Public Works, and Legal Services were consulted in the drafting of this report, recommendations and appendices.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

City staff are pleased the existing natural heritage policies and related definitions of the Provincial Planning Statement, 2020 have been carried forward with minimal changes. The changes include amending the definition of *Significant* to replace reference to “Ontario Ministry of Natural Resources and Forestry” with “the Province” and replacing “evaluation procedures developed by the Province, as amended from time to time” with “provincial guidance”. Staff have concerns these changes will increase uncertainty respecting how the Province will provide guidance and procedures for identifying natural features of provincial interest.

The proposed new Provincial Planning Statement provides the opportunity to strengthen the existing natural heritage policies in certain areas. The City of Hamilton has identified areas where additional policies should be included in the proposed Provincial Planning Statement including policies inclusive of all wetlands, policies associated with Vegetation Protection Zones, updating the Natural Heritage Reference Manual and re-evaluating the role of Conservation Authorities for evaluating natural features. This is further described in the comments attached as Appendix “A” to Report PED23185.

The Provincial Planning Statement, 2020 definition of *Natural Heritage Features and Areas* was initially proposed to be revised to remove reference to *habitat of endangered species and threatened species* in the revised document released on June 16, 2023. The document was since updated to remove this change. The Ministry of Municipal Affairs and Housing clarified this change was an error and there is no intent to revise the definition of *Natural Heritage Features and Areas*. The City of Hamilton has prepared comments on this basis.

The natural heritage policies of the Growth Plan are not included within the proposed Provincial Planning Statement. The natural heritage policies of the Growth Plan currently represent duplication with other provincial legislation and add unnecessary complexity for municipalities like Hamilton within the Greenbelt Plan when reviewing and developing official plan policies and assessing development applications.

It is understood that the natural heritage policies of the Greenbelt Plan and Niagara Escarpment Plan will continue to prevail over the proposed Provincial Planning Statement, 2023. At the time of writing this report, no changes have been proposed to these pieces of legislature and associated plans / policies.

ALTERNATIVES FOR CONSIDERATION

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

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED23185 – City of Hamilton Staff Submission on the Natural
Heritage Policies of the Provincial Planning
Statement, 2023

JA:sd