

**City of Hamilton Comments on
Bill 150 - *Planning Statute Law Amendment Act, 2023***

Specific Changes:

Summary of Proposed Change	Comments
<i>Schedule 1 - Official Plan Adjustments Act, 2023</i>	
<p>Section 1 would reverse provincial decisions on Official Plans affecting 12 municipalities, including City of Hamilton Urban Hamilton Official Plan Amendment 167 and Rural Hamilton Official Plan Amendment 34, deeming that, except for modifications 18, 26 and 36, these modifications have never been made.</p>	<p>On November 22, 2023 Hamilton City Council endorsed the recommendation that “Council reconfirm its position on Urban Hamilton Official Plan Amendment 167 and Rural Hamilton Official Plan Amendment 34, as adopted by Council on June 8, 2022”.</p> <p>As detailed in Appendix “A” and “B” to Report PED23252, the City of Hamilton has identified 26 Ministry modifications, including modifications 18, 26 and 36 to Urban Hamilton Official Plan Amendment 167, to be maintained. The City of Hamilton maintains its support for the preservation of all 26 Ministry modifications.</p>
<p>Section 2 identifies new Ministry modifications to municipal Official Plans and Official Plan Amendments.</p>	<p>This section does not identify any modifications to either the Urban or Rural Hamilton Official Plans. As such the City has no comment.</p>
<p>Section 3 provides direction with respect to the effect of approval of the legislation on existing <i>Planning Act</i> and <i>Building Code Act, 1992</i> applications.</p>	<p>Section 3(2), “Conformity with official plan as approved” is unclear with respect to its application and legal effect.</p> <p>While Section 3(2) would appear to require any decisions of a municipality or the Ontario Land Tribunal issued after November 4, 2022 to conform with the retroactively in force official plan amendment, there is no clarity about effect of any decisions already issued between November 4, 2022 and the date the legislation comes into effect. Staff recommends clarification on how the retroactive effect of the legislation would impact decisions of the municipality or the Ontario Land Tribunal where those decisions may not conform with the retroactively in force official plan, as approved or amended by the proposed legislation. The City of Hamilton has prepared detailed recommendations on transitional matters related to</p>

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	<p>the reversal of the Ministry modifications which is detailed in Report PED23252. These included transition provisions that would pause or freeze the legislative timelines for <i>Planning Act</i> applications received after November 4, 2022, such as timelines that trigger the refund of applications fees and rights of appeal. The proposed legislation does not include transition provisions that would have the same or similar effect. Staff recommend the transition provisions as listed below be included in Bill 150:</p> <ul style="list-style-type: none"> • Any fees required to be refunded under the <i>Planning Act</i> are paused until the implementing legislation is in full force and effect, and further that the applicable refund timeline be extended by no less than 120 days. • Provisions of the <i>Planning Act</i> that provide a right-of-appeal to the Ontario Land Tribunal for the failure of the municipality to make a decision be paused until the implementing legislation is in full force and effect, and further that statutory timelines to make a decision be extended by no less than 120 days.
<p>Section 4 sets out various limitations on remedies which includes, among other things, that no cause of action arises as a result of this Act or any decisions under Subsection 17 (34) of the <i>Planning Act specifically</i> referred to in Subsection 1.</p>	<p>As detailed in Report PED23252, the City of Hamilton requested that the Ministry of Municipal Affairs and Housing include clear language in the implementing legislation that would bar legal proceedings and remedies being brought against municipalities in relation to the reversal of the Minister’s modified official plans.</p> <p>Staff note that the Bill proposes limitations with respect to legal action and remedies and requests that clarification be provided that these protections extend to municipalities, and that there is clear language in the legislation that reflects that this protection applies to municipalities.</p> <p>In particular, Section 4(d) provides specific immunity for employees of the Crown and Executive council with respect to representations made in relation to Section 1(1). Staff recommend that “current or former employee, officers of agents</p>

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	<p>of municipalities” be added to Section 4(d) to ensure this immunity is extended to municipalities.</p> <p>Staff also recommend that language be included that would permit municipalities to request compensation from the Province to account for costs incurred in relation to the official plan decision and reversal.</p>
Schedule 2 – Planning Act	
<p>The legislation introduces various limitations on remedies which includes, among other things, that no cause of action arises as a result of this Act or any decisions under Subsection 47 of the <i>Planning Act</i>.</p> <p>In ERO Posting 019-7885, the Province has stated that this amendment is to introduce immunity provisions to help mitigate legal risk related to the making, amendment or revoking of Minister’s Zoning Orders.</p>	<p>The proposed legislation would result in legal proceedings and remedies in relation to Minister’s Zoning Orders being largely barred. Applications for judicial review may still be pursued as clarified under Section 47(23).</p>

Additional Comments – Development Charges Act, 1997

As detailed in Report PED23252, the City of Hamilton requests that the proposed legislation be modified to remove the requirement to phase in Development Charge Rates (Section 5(8) of the Development Charges Act, 1997, as amended) for the initial service specific Development Charge By-laws which utilize infrastructure master plans developed based on the reversal of Provincial modifications to the urban boundary.

As a result of the November 2022 Provincial decision on Official Plan Amendment 167, the City was required to reassess the master plans to be used within the City’s Development Charges Background Study. Due to the extent of the changes to the City’s Urban Boundary, it was not feasible to undergo a full 2051 planning horizon master plan process based on the Provincial changes to the urban boundary. Therefore, the City is moving forward with 2031 planning horizon master plans in its 2024 Development Charges Background Study. However, had the City been able to move forward with the urban boundary adopted by Council in June 2022, then the City would have been able to utilize 2051 planning horizon master plans in the 2024 Development Charges Background Study.

The City will need to complete master plans with a 2051 planning horizon using the ultimate urban boundary approved by the Province. Section 5(8) of the Development Charges Act, 1997, as amended, requires that municipalities phase in Development Charges when a new Development Charges by-law is adopted. This required phase-in means that the City is not collecting the amount required to fund the growth portion of infrastructure for the first four years that a Development Charges By-law is in place. Since the City will consider adopting new service specific Development Charges By-laws once the 2051 master plans are complete, the City would not have needed to pass new Development Charges by-laws had the Province not initially expanded the urban boundary.

The City strongly requests the removal of the requirement to phase-in Development Charges for the initial service specific Development Charges by-laws which utilize the 2051 planning horizon master plans.