




Hamilton

INFORMATION REPORT

TO:	Chair and Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	June 24, 2024
SUBJECT/REPORT NO:	Bill 200, Schedule 2, <i>Homeowner Protection Act, 2024</i> , and Proposed Changes to the <i>Ontario Heritage Act</i> for Properties Listed on the Municipal Heritage Register (PED24127) (City Wide)
WARD(S) AFFECTED:	City Wide
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SIGNATURE:	

INFORMATION

On October 25, 2022, Bill 23, *More Homes Built Faster Act, 2022* was introduced at the Ontario Legislature and was proclaimed on January 1, 2023. Bill 23 changed how municipalities can use the Municipal Heritage Register as a tool for heritage conservation, effectively making it a placeholder for individual Part IV designation only. The current provisions of the *Ontario Heritage Act* will result in the automatic de-listing of over 2,300 non-designated properties listed on the City's Municipal Heritage Register on January 1, 2025. These properties would be prohibited from being re-listed until January 1, 2030.

The Bill 23 changes to the *Ontario Heritage Act* also required the City of Hamilton to change its heritage designation process, resulting in Council identifying 60 properties listed on the Municipal Heritage Register as high priorities for staff review for designation under Part IV of the *Ontario Heritage Act* by January 1, 2025 (see Report PED22211(a)).

On May 27, 2024, Bill 200, *Homeowner Protection Act, 2024*, was introduced at the Ontario Legislature. Schedule 2 of Bill 200 (attached as Appendix "A" of Report PED24127), proposed amendments to the *Ontario Heritage Act*. The Environmental

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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 200, Schedule 2, *Homeowner Protection Act, 2024*, and Proposed Changes to the *Ontario Heritage Act* for Properties Listed on the Municipal Heritage Register (PED24127) (City Wide) - Page 2 of 4

Registry of Ontario Posting, ERO # 019-8738, for Bill 200, Schedule 2 (attached as Appendix “B” of Report PED24127), provided the following summary of the proposal:

“A proposal to make legislative amendments to the Ontario Heritage Act to address matters related to non-designated or “listed” properties included on municipal registers.”

The details of the proposal identify the following changes to the *Ontario Heritage Act*:

- Providing an extension of the timeframe for the expiration of “legacy listed properties” from January 1, 2025, to January 1, 2027, and an adjustment to the related five-year prohibition on relisting. These changes are intended to help alleviate current municipal resourcing pressures associated with reviewing legacy listed properties by allowing municipalities to extend the work and associated costs over a longer period of time.
- Clarifying that the listing rules (legislative timelines and removal requirements) apply to properties even if a municipality voluntarily removes them from the Municipal Heritage Register before they expire and introducing additional transitional provisions for those properties that have already been voluntarily removed.

Bill 200 received Royal Assent on June 6, 2024. As a result of receiving Royal Assent, the proposed changes to the *Ontario Heritage Act* (under Schedule 2 of Bill 200) have already been implemented and the ERO commenting period, which was originally identified to end on June 26, 2024, has been closed.

Staff Comments

Staff are supportive of an extension of the “legacy listed properties” expiry from January 1, 2025, to January 1, 2027, as it will provide additional time to review high priority properties for designation before they are delisted from the Municipal Heritage Register. However, staff believe that there should not be any time restrictions for listing a property on the Municipal Heritage Register for the following reasons:

- The Province of Ontario has not demonstrated that listing properties on the Municipal Heritage Register meaningfully limits or prohibits the development of new housing. Expiries and prohibitions on relisting complicates the administration process, causing confusion and reduced transparency for property owners and additional administrative burden for municipalities, cutting into finite staff resources that could be focused on the development commenting process to help facilitate the creation of new housing sooner.

SUBJECT: Bill 200, Schedule 2, *Homeowner Protection Act, 2024*, and Proposed Changes to the *Ontario Heritage Act* for Properties Listed on the Municipal Heritage Register (PED24127) (City Wide) - Page 3 of 4

- The cumulative effects of the Bill 23, Bill 108 and Bill 109 changes to the *Ontario Heritage Act* and *Planning Act* diminish the City's ability to conserve significant cultural heritage resources through the redevelopment process. These changes are contrary to the *Planning Act* requirement for municipalities to have regard for the provincial interest outlined in Section 2(d), for "the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest".

For a municipality the size of the City of Hamilton which currently has over 2,300 non-designated properties on the Municipal Heritage Register and an additional 6,000 properties on the Inventory of Heritage Properties, it is not feasible or reasonable to assume that every property worthy of designation can be identified, evaluated, and protected through designation under the *Ontario Heritage Act* prior to a *Planning Act* application for redevelopment being submitted. The existing Provincial Policy Statement acknowledges this by stating that, "[w]hile some significant resources may already be identified and inventoried by official sources, the significance of others can only be determined after evaluation". The expiry and prohibitions for relisting properties on the Municipal Heritage Register limit the City's ability to conserve significant heritage resources that are not already listed or designated at the time of a Prescribed Event under the *Planning Act*.

- By eliminating the expiry and restrictions for re-listing properties on the Municipal Heritage Register, municipalities would be better able to undertake proactive identification of heritage properties in accordance Section 4.6.4 of the proposed Provincial Planning Statement, which encourages municipalities to develop and implement "proactive strategies for evaluation under the *Ontario Heritage Act*". This would align with the City of Hamilton's Built Heritage Inventory Strategy, which is a proactive initiative for the identification of heritage properties which previously focused on listing properties of heritage interest on the Municipal Heritage Register to provide interim protection from demolition, and flagging significant heritage properties that may be worthy of designation under Part IV of the *Ontario Heritage Act*.

Staff anticipate reporting back to the Hamilton Municipal Heritage Committee by the end of 2024 with an update on the City's heritage designation process and work on the high priority list for designation, and with any recommended actions to address the legislative changes implemented as part of Bill 200 and the additional time afforded to municipalities to review the legacy listed properties. This may include options for identifying additional designation candidates for high priority review by January 1, 2027, and strategies for prioritizing the designation of other listed properties as part of potential Heritage Conservation Districts.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED24127 – Bill 200, Schedule 2 Excerpt

Appendix "B" to Report PED24127 – Environmental Registry of Ontario Posting Number 019-8738, Proposed Amendments to the *Ontario Heritage Act*, Schedule 2 of the Proposed *Homeowner Protection Act, 2024*

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