

## REPORT

### Planning and Development Council

Meeting Date: May 15, 2023

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**FROM:** Planning Services Department

**DATE:** May 2, 2023

**SUBJECT:** Information and Update Report on Provincial Initiatives – Bill 109, Bill 23, Bill 97 and the proposed Provincial Planning Statement 2023 – May 15, 2023

**LOCATION:** Town-wide

**WARD:** Town-wide

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#### RECOMMENDATION:

1. That the report titled “Information and Update Report on Provincial Initiatives – Bill 109, Bill 23, Bill 97 and the proposed Provincial Planning Statement 2023 – May 15, 2023” dated May 2, 2023, be received.
2. That the comments within this report related to the “Proposed *Planning Act*, *City of Toronto Act*, 2006, and *Ministry of Municipal Affairs and Housing Act* Changes (Schedules 2, 4, and 6 of Bill 97 - the proposed *Helping Homebuyers, Protecting Tenants Act*, 2023)” be endorsed as the Town of Oakville’s response to the ERO No. 019-6821, as staff submitted these comments to the Ministry of Municipal Affairs and Housing to meet the May 6, 2023, commenting deadline.
3. That the comments within this report related to the “Review of proposed policies adapted from A Place to Grow and Provincial Policy Statement to form a new provincial planning policy instrument” be endorsed as the Town of Oakville’s response to the ERO No. 019-6813 and submitted to the Ministry of Municipal Affairs and Housing, prior to the June 5, 2023, commenting deadline.
4. That the comments within this report related to the “Site Plan for Residential Developments of 10 or Fewer Units – Two Proposed new Minister’s Regulations under the *Planning Act* and the *City of Toronto Act*, 2006” be endorsed as the Town of Oakville’s response to the ERO No. 019-6822 and submitted to the Ministry of Municipal Affairs and Housing, prior to the May 21, 2023, commenting deadline.

5. That the report titled “Information and Update Report on Provincial Initiatives – Bill 109, Bill 23, Bill 97 and the proposed Provincial Planning Statement 2023 – May 15, 2023” dated May 2, 2023, be forwarded by the Town Clerk to the Minister of Municipal Affairs and Housing, Halton Area MPPs, Halton Region, the City of Burlington, the Town of Halton Hills, the Town of Milton, Conservation Halton and Credit Valley Conservation.

## **KEY FACTS:**

These are key facts for this report:

- This report provides updates on three pieces of provincial legislation (Bill 109, Bill 23, Bill 97) and related regulations and materials. These are intended to support Ontario’s Housing Affordability Task Force Report, Ontario’s Housing Supply Action Plan and the province’s commitment to build 1.5 million homes by 2031.
- Each piece of legislation, including associated regulations and plans, are at varying stages of enactment by the province and implementation by the town.

### ***Bill 109***

- The province’s Bill 109, the *More Homes for Everyone Act, 2022* (“Bill 109”) received Royal Assent on April 14, 2022. Some provisions were immediately in force, while others will come into force and effect later.
- Official Plan Amendments 47 and 328, which are in force and effect, were developed in response to Bill 109 to ensure that the town’s pre-consultation and complete application process for site plan applications continue as per current town practice.
- Official Plan Amendments 53 and 329, which are under appeal to the Ontario Land Tribunal, were developed in response to Bill 109 to enable the timely processing of development applications by requiring early public engagement prior to the submission of a development application.
- The town continues to implement Bill 109, as applicable.

### ***Bill 23***

- The province’s Bill 23, the *More Homes Built Faster Act, 2022* (“Bill 23”) received royal assent on November 28, 2022. Some provisions were immediately in force, while others will come into force and effect later.

- Implementation progress on Bill 23 includes amending the Development Engineering Site Plan (DESP) review process to respond to the new legislation; addressing cultural heritage matters including the initiation of the Heritage Designation Project; developing a program to address Council's request to report on potential revenue losses from Bill 23; and addressing new provincial requirements to report on required planning matters.
- The town continues to implement Bill 23, as applicable.

### ***Bill 97 and the proposed Provincial Planning Statement***

- On April 6, 2023, the province introduced Bill 97, the *Helping Homebuyers, Protecting Tenants Act, 2023* ("Bill 97"), and released a proposed Provincial Planning Statement 2023 to replace the current Provincial Policy Statement 2020 and the Growth Plan for the Greater Golden Horseshoe.
- This report summarizes key aspects of the legislation and provides the town's comments on Bill 97, the proposed Provincial Policy Statement, and associated regulations. These comments will be submitted to the province through the applicable ERO postings.

It is important to note that until proposed changes to the legislation comes into effect at a future date, the existing planning framework established by the province continues to apply including the Growth Plan 2020 and Provincial Policy Statement 2020.

## **BACKGROUND:**

### **Bill 109 - More Homes for Everyone Act**

The province's Bill 109, *More Homes for Everyone Act, 2022* received Royal Assent on April 14, 2022. Bill 109 was reported as the province's first step in implementing Ontario's Housing Affordability Task Force Report recommendations. Staff provided a report to Council on the Ontario Housing Affordability Task Force Report at its meeting of [April 4, 2022](#) (Agenda Item 7.2).

Staff provided reports to Council on Bill 109 and its implementation thereto at:

- Town Council on [April 25, 2022](#)  
(Agenda Item 9.2: staff response to Bill 109 and comment report)
- Planning and Development Council on [July 11, 2022](#)  
(Agenda Item 6.4: Public Meeting and Recommendation - OPA 47 and 328)

- Planning and Development Council on [December 5, 2022](#) (Agenda Item 6.3: Public Meeting and Recommendation - OPA 53 and 329)

### **Bill 23 - More Homes Built Faster Act**

On October 25, 2022, the province introduced its main housing initiative, the *More Homes Built Faster: Ontario's Housing Supply Action Plan 2022-2023*. The Action Plan supports the province's commitment to build 1.5 million new homes over the next 10 years to address Ontario's housing crisis.

Central to the Action Plan is Bill 23, the *More Homes Built Faster Act, 2022*. Bill 23 affects several planning and development statutes, including the *Planning Act*, *Development Charges Act*, *Conservation Authorities Act*, *Ontario Land Tribunal Act* and the *Ontario Heritage Act*.

In conjunction with Bill 23, the province announced several updates to regulations and consultations on various provincial plans and policies including the 2020 Provincial Policy Statement and the 2019 Growth Plan.

Bill 23, the *More Homes Built Faster Act, 2022* received royal assent on November 28, 2022. Some provisions were immediately in force, while others will come into force later. A staff report was provided to Planning and Development Council regarding Bill 23 on [December 5, 2022](#) (Agenda Item 7.2), which included detailed comments.

### **Bill 97 - Helping Homebuyers, Protecting Tenants Act**

On April 6, 2023, the Province announced Bill 97, the *Helping Homebuyers, Protecting Tenants Act, 2023*, which received first reading in the Ontario legislature. Bill 97 is the most recent legislation the province is proposing to implement its Housing Supply Action Plan and its commitment to build 1.5 million homes by 2031.

Public engagement on Bill 97 is underway with several opportunities to provide comments as discussed throughout the report. The Bill will be subject to further readings by the legislature, potential committee review, and may be further amended. The Bill proposes amendments to:

- Schedule 1 - *Building Code Act, 1992*
- Schedule 2 - *City of Toronto Act, 2006*
- Schedule 3 - *Development Charges Act, 1997*
- Schedule 4 - *Ministry of Municipal Affairs and Housing Act*
- Schedule 5 - *Municipal Act, 2001*
- Schedule 6 - *Planning Act*
- Schedule 7 - *Residential Tenancies Act, 2006*

Schedule 1 proposes changes to the *Building Code Act* regarding Ministerial powers to appoint provincial building inspectors and is not a concern for the town.

Schedule 2 proposes changes to the *City of Toronto Act* and is not a concern for the town.

Schedule 3 proposes changes to the *Development Charges Act*. This change may be viewed as a refinement to the legislation and does not have an impact to the town.

Schedule 4 proposes changes to the *Ministry of Municipal Affairs and Housing Act* regarding Ministerial powers over responsibilities of Provincial Land and Development Facilitators (PLDF).

The PLDF is intended to help the province, municipalities, developers, businesses and community groups resolve issues related to growth management, land use and infrastructure planning, and environmental protection by providing impartial facilitation services or by acting as a negotiator on behalf of the province. The new agency was made operational on October 1, 2020.

The PLDF is outside the town's purview and there are no comments.

Schedule 5 proposes changes to the *Municipal Act* regarding protective measures for rental housing. This proposal is addressed later in this report.

Schedule 6 proposes changes to the *Planning Act* in several areas. The proposal is detailed later in this report along with staff commentary.

Schedule 7 proposes changes to the *Residential Tenancies Act* regarding rights and protections for tenants of rental housing. These are discussed later in this report.

The province is seeking comments on Schedules 2, 4, and 6 of Bill 97 by May 6, 2023 ([ERO No. 019-6821](#)).

### **Proposed Provincial Planning Statement 2023**

In addition to Bill 97, on April 6, 2023, the province released a draft Provincial Planning Statement (PPS) to integrate and replace the current Provincial Policy Statement 2020 and A Place to Grow: Growth Plan for the Greater Golden Horseshoe. The proposed PPS 2023 is intended as a next step to implement the provincial Housing Supply Action Plan and its commitment to build 1.5 million homes by 2031. The proposed PPS 2023 has been developed with achieving housing outcomes as a top priority. The PPS is intended to remove barriers to housing,

accelerate the development approvals process, support growth and generate housing supply, and provides large and fast-growing municipalities with additional flexibility to help deliver housing.

The opportunity to provide comments on the PPS 2023 closes June 5, 2023 ([ERO No. 019-6813](#)). Staff comments on the proposed PPS 2023 are provided later in this report.

### **Regulation through Bill 97: Site Plan for Residential Development of 10 or Fewer Units**

Two new regulations regarding site plan control are proposed through Bill 97. The new regulations could potentially restore some part of a municipality's ability to require site plan control, which were previously taken away under Bill 23.

If Bill 97 is passed and the regulations are made, the regulations would set out the conditions under which municipalities could use site plan control for residential developments of 10 or fewer units on a single lot. The regulations being proposed would specifically permit the use of site plan for parcels of land where:

- any part of which is located within 120 metres of a shoreline; and
- any part of which is located within 300 metres of a railway line.

Public consultation on the regulations proposed under the *Planning Act* regarding site plan for residential developments of 10 or fewer units is underway. The opportunity to provide comments on the proposal closes May 21, 2023 ([ERO No. 019-6822](#)).

### **COMMENTS:**

This report provides implementation updates on Bill 109 - More Homes for Everyone Act and Bill 23 - More Homes Built Faster Act.

Additional commentary in the sections below provides an overview of Bill 97 - Helping Homebuyers, Protecting Tenants Act and the Proposed Provincial Planning Statement 2023.

### **Bill 109 – Implementation Progress**

#### ***OPA 47 and OPA 328***

At the Public Meeting held on July 11, 2022, Town Council passed By-law 2022-074 to adopt OPA 47 to the Livable Oakville Plan, and By-law 2022-075 to adopt OPA 328 to the 1984 Oakville Official Plan (North Oakville Secondary Planning Areas).

The Official Plan Amendments (OPAs) were developed in response to changes made to the *Planning Act* resulting from Bill 109, which put in place new rules about site plan control, pre-consultations with municipalities before plans and drawings for site plan are submitted for approval, and completeness of site plan applications.

OPA 47 and OPA 328 responded to these changes by updating the town's implementation policies in both the Livable Oakville Official Plan and 1984 Oakville Official Plan (North Oakville Secondary Planning Area). The amended policies ensured the pre-consultation and complete application process for site plan applications continued as per current town practice.

OPA 47 and OPA 328 are in force and effect.

### ***OPA 53 and OPA 329***

At the Public Meeting held on December 5, 2022, town council passed By-law 2022-122 to adopt Official Plan Amendment 329 to the 1984 Oakville Official Plan (North Oakville Secondary Planning Areas), and By-law 2022-123 to adopt Official Plan Amendment 53 to the Livable Oakville Plan.

The OPAs were developed in response to changes made to the *Planning Act* resulting from Bill 109, which put in place new rules about when municipalities are required to refund fees in relation to processing times of development applications, among other matters.

The OPAs responded to these changes by updating the town's implementation policies regarding pre-consultation and complete application submission requirements and alternative notice procedures, requiring early public engagement prior to the submission of a development application, and a public engagement report as part of a complete application submission.

The effect of the changes is intended to ensure appropriate public consultation and development application processing timelines can be met without the need to refund fees.

OPA 53 and OPA 329 are appealed to the Ontario Land Tribunal.

### ***Development Applications***

Under Bill 109, the *Planning Act* was amended requiring municipalities to refund development application fees if the municipality failed to meet statutory deadlines for making decisions on development applications. The refund requirements initially came into force January 1, 2023.

Bill 97, discussed later in this report, would extend the deadline by six months from January 1, 2023, to July 1, 2023. The fee refund framework would apply to applications received on or after July 1, 2023. Any refunds triggered under the previous January 1, 2023, framework would be cancelled.

Notwithstanding the extension provided by Bill 97, it is noted that the town received two development applications within the period (post January 1, 2023) which would have otherwise been subject to the fee refunds requirements. The applications included a site plan (60-day approval) and an OPA/ZBA (120-day approval).

These applications would have been on schedule and delivered to Council without refunds being required. To date, the town has not had to issue any refunds.

Staff notes that that other municipalities have also attempted to improve efficiency through their complete application requirements and these too have been appealed to the Tribunal. These municipalities include the City of Brampton, City of Burlington and the Town of Ajax.

## **Bill 23 – Implementation Progress**

### ***Development Engineering Site Plans (DESP)***

Staff from numerous departments have been working to refine the process the process changes required by Bill 23, including grading, drainage and tree protection impacts. This included process reviews, gap analysis, communications, template/resource development, and stakeholder engagement.

The work completed to-date, as it relates to the development engineering site plan (DESP) impacts, will be provided in a future staff report to Council. The impacts of Bill 97, including the impacts of reintroducing site plan control within 120 metres of the shoreline (and what the shoreline constitutes), will also need to be considered.

### ***Cultural Heritage Matters***

*Heritage Designations:* Bill 23 made changes to the *Ontario Heritage Act* requiring listed heritage properties to be removed from municipal heritage registers after two years. This affects the town's 294 listed properties, which would automatically be removed from the Oakville Register of Properties of Cultural Heritage Value or Interest (Heritage Register) on January 1, 2025. In response, the Policy Planning & Heritage section has initiated a [Heritage Designation Project](#) to evaluate the merits of designating approximately 80 listed properties under s. 29, Part IV of the *Ontario Heritage Act* from 2023 to 2025 to conserve Oakville's cultural heritage resources.

*Heritage Register:* Bill 23 imposed new requirements for the municipal heritage register. Municipalities are now required to provide owner names and mailing information for all properties designated under s.29, Part IV of the *Ontario Heritage*



Act. Staff is working to revise the Heritage Register to meet all legislated requirements, including a process to regularly update the Heritage Register to ensure the town has accurate information.

***Timing for Changes to Upper-tier Planning Responsibilities***

Bill 23 made changes to the *Planning Act* that, upon proclamation, will remove planning responsibility and decision making from seven upper-tier municipalities, including Halton Region. The timing for proclamation of these changes is a government decision.

As part of the package of materials released with Bill 97 was the “Proposed Approach to Implementation of the proposed Provincial Planning Statement”. It indicates that the provincial government will not remove the planning responsibilities from upper-tier municipalities until Winter 2024, at the earliest.

***Potential Revenue Losses***

At their meeting March 27, 2023, Town Council requested regular reporting on potential losses in Development Charge revenues stemming from Bill 23. A similar request also was made at Regional Council.

Local municipal and regional staff are in the process of meeting on these matters to develop a program to address these requests. Town staff will report back to Town Council on implementation progress at a future Council meeting.

***Municipal Reporting on Planning Matters***

On April 6, 2023, the Minister of Municipal Affairs and Housing passed Municipal [Planning Data Reporting - O. Reg. 73/23](#) which is now in effect. The regulation requires select municipalities in Ontario to report prescribed information on planning matters to the Ministry. The first quarterly report of planning application data is due June 30, 2023.

The town is actively working on meeting the reporting needs by the deadline which requires substantial effort to prepare the data. Town staff are collaborating with the rest of the 28 municipalities and the province on providing the information through a shared data exchange platform and advocating for provincial funding to cover the initial costs.

**Bill 97 – Schedule 6 – *Planning Act* - Commentary**

The following section provides commentary on Schedule 6 of Bill 97, which amends the *Planning Act*, as well as the companion materials provided by the province regarding implementation matters. A summary of key proposed changes is provided, including the Town’s response.

## **Definition of “area of employment”**

### *Proposed Change:*

Bill 97 proposes to amend the *Planning Act* definition of “area of employment” to align with the proposed changes to the Provincial Planning Statement 2023, discussed later in this report. Based on the new definition, the scope of what constitutes an “area of employment” would be narrowed.

The new definition of “area of employment” removes institutional, commercial and office uses from the definition, provided such uses are not otherwise related to permitted uses such as manufacturing uses, uses related to research and development, and warehousing uses.

Bill 97 also proposes transition provisions in respect of “area of employment” containing institutional uses and non-associated commercial uses. The provision provides that these uses can still form part of an “area of employment” if the lands are subject to official plan policies authorizing the continuation of the use and the use was lawfully established prior to the modified definition of “area of employment” coming into force.

These amendments will come into force on a day to be named by proclamation of the Lieutenant Governor.

### *Staff Response:*

- The exclusion of institutional uses, commercial uses, including retail and office uses from an “area of employment,” in conjunction with the uses prohibited by the proposed PPS 2023, will trigger a re-evaluation of the town’s employment areas designated in the Official plan.
- Staff is concerned that this could impact the town’s employment land supply, including planning and maintaining employment lands in a greenfield context.
- Coupled with the changes being proposed to the PPS 2023, as discussed later in this report, staff is concerned that the proposed changes may reduce employment area protections and related mix of employment opportunities given the scope of employment areas has narrowed.

The town’s economic development strategy focuses on attracting investment in four key sectors: professional services, life sciences, advanced manufacturing, and digital media and information and communications technology.

Many of these types of companies would locate within commercial space, including office, which is now excluded from “area of employment.” Knowledge-based industries are well suited to Oakville given the education level of the population. Staff is concerned that this new legislation may impact knowledge-based employment opportunities for residents.

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***Development Application Fee Refund Provisions - Extension***

***Proposed Change:***

As noted in the Bill 109 update section of this report, under Bill 109, the *Planning Act* was amended requiring municipalities to refund development application fees if the municipality failed to meet imposed statutory deadlines for making decisions on zoning by-law amendment applications, combined zoning by-law/official plan amendment applications, and site plan applications. The refund requirements initially came into force January 1, 2023.

Bill 97 extends the deadline by six months from January 1, 2023, to July 1, 2023. The fee refund framework now applies to applications received on or after July 1, 2023. Any refunds triggered under the previous January 1, 2023, framework are cancelled.

Under Bill 97, an amendment was also introduced which would create a regulation-making authority for the Minister to exempt certain municipalities from the fee refund framework. No municipalities have been identified.

***Staff Response:***

- Staff supports the extended deadline.
- Staff notes that it remains unclear how refunding fees will expedite the development application process. A repeal of this provision would allow the planning process to continue more effectively. At the very least a provision could be added that would allow the parties to agree to 'stop the clock' while they work through issues.
- Staff would advocate that the town be exempt from the fee refund regime should the Minister identify exempted municipalities through regulation.

***Restores Right of Appeal to the Initial Passing of an Interim Control By-Law***

***Proposed Change:***

Bill 97 proposes to restore the right to appeal the initial passing of an interim control by-law, in addition to the extension thereof. The requirement to give notice of the adoption of an interim control by-law is reduced to 20 days (from 30), and the appeal deadline is 50 days after the date of passing of the by-law. Transition would apply.

***Staff Response:***

- Staff is concerned that allowing appeals weakens its ability to prevent or pause development in advance of completing comprehensive or proactive studies to guide development appropriately.
- Given the intent of Bill 97 is to provide for increase housing supply at an accelerated pace, staff is unsure how allowing appeals would accelerate housing development.

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### ***New Ministerial Powers***

#### **Proposed Change:**

Under Bill 97 and the proposed Provincial Planning Statement, the Minister would be given additional powers to make regulations and orders related to planning functions that previously would have been done by local municipalities, including:

- Requiring landowners and municipalities to enter into agreements where a Provincial Land Development Facilitator has been appointed. These agreements could include matters that go beyond what can be provided in either the *Planning Act* or *Development Charges Act* to address any matter the Minister considers necessary for the appropriate development of the land (e.g., community benefits).
- Requiring that until landowners and municipalities enter into any required agreements, only existing uses would be permitted to continue until the agreement(s) has been signed. This has the same effect as imposing an interim control by-law.
- Exempting lands that are the subject of minister's zoning orders from complying with provincial policies and official plans when other planning approvals are applied for, such as plans of subdivision. This gives the Minister the ability to address circumstances where an minister's zoning orders permits residential uses in an area where the official plan does not.
- Making regulations regarding transition related to the applicability of a new Provincial Planning Statement, including that all decisions, including zoning by-laws and permitting processes, must be consistent with the proposed PPS 2023, even before a municipality has updated its official plan.
- Making regulations regarding the power a municipality must regulate demolition and conversion of residential rental properties, including to pass a by-law requiring a landowner to provide compensation.

#### **Staff Response:**

- Staff has concerns that through the additional Ministerial powers, which empower the Minister to make decisions on behalf of local communities, the community-led planning visions established under local Official plans may be jeopardized.
- The town recognizes that there are opportunities when working with the development community to enter into agreements that benefit the community. However, staff is concerned that the forced requirement to enter into development agreements may be counter to the town's objectives in some instances. Furthermore, staff is concerned that there may be limited and/or reduced transparency with the public regarding decision making within a more litigious environment under a requirement to enter into agreements.
- Staff is concerned that the official plan may be jeopardized under the new framework for minister's zoning orders and lead to ad-hoc decision making.

- Staff is concerned about the transition period to the new PPS 2023 and the requirement that it would apply even when official plans are not brought up to date. This is of particular concern for employment area planning and the potential for conversion requests in the absence of a municipal comprehensive review process.

### **Bill 97 –Schedules 5 and 7 – Residential Tenancies Act and Municipal Act**

#### ***Residential Tenancies Act, 2006***

Bill 97 proposes changes to the *Residential Tenancies Act, 2006* aimed at strengthening renter protections where a landlord proposes to evict for renovations, demolitions, conversions or for a landlord's own use; increase fines for bad-faith evictions; and enhance tenant rights to improve living conditions.

#### ***Municipal Act, 2001***

Bill 97, Schedule 5, if passed, would amend section 99.1 of the *Municipal Act* which is the section that provides the authority to municipalities to pass by-law(s) that prohibits and regulates the demolition of residential rental properties and prohibits and regulates the conversion of residential rental properties to some other use.

The proposed amendment provides that the by-law making power of a municipality would be subject to any regulations passed by the province and in that regard the proposed amendment also greatly expands what the province may do if it decides to pass regulations under section 99.1 of the *Municipal Act* from that which is presently set out in the current section 99.1 of the *Municipal Act*.

Right now, the regulation making power simply states: "The Minister may make regulations imposing limits and conditions on the powers."

The proposed amendment would state:

*"(7) The Minister may make regulations,*

*(a) governing the powers of a local municipality under this section, including regulations,*

*(i) imposing restrictions, limits and conditions on the powers of local municipalities to prohibit and regulate the demolition and conversion of residential rental properties,*

*(ii) prescribing requirements to be contained in by-laws made under this section,*

*(iii) prescribing conditions that local municipalities must include as a requirement for obtaining a permit, and*

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- (iv) prescribing requirements that the local municipality must impose on owners of land to which a by-law passed under this section applies;*
- (b) authorizing local municipalities that pass a by-law under this section to require an owner of land to which a by-law passed under this section applies to make payments and to provide compensation;*
- (c) for the purposes of clause (b), prescribing the amounts to be paid, the compensation to be provided, the persons to whom payments and compensation shall be made and the circumstances in which payments and compensation shall be made, and otherwise governing the payments and compensation;*
- (d) prescribing steps local municipalities must take or conditions that must be met before passing a by-law under this section and governing any transitional matters with respect to the implementation of such conditions;*
- (e) defining, for the purposes of this section and any regulations under this section, any word or expression not defined in subsection 1 (1) of this Act.”*

The proposed amendment would also make it clear that any regulations imposed under this section would prevail in the event of any conflict with the by-law or with any other act including the *Residential Tenancies Act*.

With the introduction of this proposed amendment to section 99.1 of the *Municipal Act*, the province published in the Environmental Registry a request for feedback on the future regulations the province indicated it intended to pass under section 99.1 of the *Municipal Act* "to create a balanced framework around Possible Rental Replacement By-laws."

The province states what it fully intends to put in the regulations as follows:

*“Where tenants are displaced due to the demolition/conversion of their rental unit, the government intends to consider future regulations that would regulate matters such as:*

- 1. Prescribe minimum requirements for landowners to give tenants the option to rent a 'replacement unit' at the same location as their demolished unit, and at a similar rent. This requirement would apply in instances where a 'replacement unit' is required to be built at the same location as the demolished unit.*

*2. Set common rules about the types of compensation that would be required to be provided to displaced tenants.*

*3. Prescribe minimum requirements for landowners to build 'replacement units' with the same core features (e.g., same number of bedrooms) as demolished units.*

*4. Limit municipalities from imposing minimum square footage requirements for 'replacement units'.*

The province is seeking feedback on additional elements that could be included as part of this proposal, as follows:

- A. Should rent for replacement units be regulated? If so, how?
- B. Are there any types of entities/institutions that own or operate residential rental properties of six or more units that should be exempt from rental replacement rules? If so, what are they, and why should they be exempt?
- C. Are there any other elements the government should consider?

The province is seeking the feedback through the [Regulatory Registry posting 23-MMAH005](#) on the proposed regulations by May 21.

**Staff Response:**

Currently, staff has been investigating the merits of a section 99.1 By-law prohibiting and regulating the demolition and conversion of residential rental properties containing six or more units.

Staff notes that the City of Mississauga has recently prepared such a By-law that addresses the expected four elements set out above in the newly proposed regulation as well as Items A and C. Town staff suggest that the province's regulations should enable the approach that Mississauga has used in the implementation and enforcement of its by-law including its issuance of permits and the setting of conditions for the proposed demolition and/or conversion to proceed.

**Provincial Planning Statement 2023**

The [proposed Provincial Planning Statement 2023](#) (PPS) represents significant changes to growth management with a new planning approach to support the increase of housing supply throughout Ontario. The changes are intended to leverage housing supportive policies from the existing PPS 2020 and the Growth Plan to further remove barriers and continue to protect the environment through a

streamlined province-wide land use planning framework. Under the *Planning Act*, all municipal decisions will have to be consistent with the proposed PPS 2023.

The province has stated that the proposed changes respond to input received through previous consultation. The proposed PPS 2023 is grounded in five pillars:

- Generate an appropriate housing supply,
- Make land available for development,
- Provide infrastructure to support development,
- Balance housing with resources, and
- Implementation.

The province is currently seeking feedback via ERO [019-6813](#) and the comments period will close on June 5, 2023. The proposed PPS 2023 is expected to come into force by fall 2023. The following section provides a summary of key proposed changes and staff responses as well as a review of the proposed approach to implementation of the proposed PPS 2023.

### ***Planning for People and Homes***

#### **Proposed Change:**

- The requirement for municipalities to plan to accommodate specific population and employment growth forecasts to a horizon year is not carried forward in PPS 2023.
- Local municipalities will eventually undertake their own growth forecasts. Until that time, the province expects that municipalities will meet or exceed the existing Growth Plan 2051 minimum forecasts.
- In instances of a minister's zoning order, the resulting development potential would be added to forecasted needs over the long-term. During a municipality's next official plan (OP) update, this additional growth would be incorporated into the OP and related infrastructure plans.
- Several concepts are not carried forward in the proposed PPS 2023 including the delineated built boundary, municipal comprehensive review, provincially significant employment zones,

#### **Staff Response:**

- Staff supports the importance of long-range growth management planning with population and employment forecasts that are regularly updated.
- Staff supports the direction for municipalities to undertake growth forecasting at the local level, but it must be implementable, and the upper-tier municipalities are needed to deliver infrastructure.
- Staff notes that while the province is proposing policy changes that make it easier to intensify everywhere, the town-wide urban structure will continue to



provide Oakville with a comprehensive framework for managing current and future forecasted growth.

- Good community planning in the public interest suggests that the Council approved urban structure provides for the long-term protection of natural heritage, public open space and cultural heritage resources, maintains the character of Residential Areas and is the foundation to direct growth to identified nodes and corridors.

## ***Housing***

### **Proposed Change:**

- Removes the requirement for implementing minimum targets for the provision of housing which was previously identified as being affordable to low- and moderate-income households.
- In place of the minimum targets, a proposed requirement is for planning authorities to coordinate land use and planning for housing with provincial Service Managers to address full range of housing options, including housing affordability needs.
- Furthermore, a proposed requirement will permit and facilitate conversion of existing commercial and institutional buildings for residential use. It will also permit the development and introduction of new housing options within previously developed areas and redevelopment that results in an overall increase in residential units.

### **Staff Response:**

- Staff supports increased opportunities for creating new housing, however it should be done in a comprehensive manner that considers a range of planning and land use matters.
- Additionally, staff is of the opinion that protecting opportunities for employment and maintaining complete communities is critical.
- Staff supports the provision of a full range and mix of housing, however prioritizing growth and intensification in strategic growth areas should be maintained.
- Overall, staff supports greater alignment with provincial housing targets and welcomes opportunities for expanded tools that support creation of new housing, which should explicitly include affordable housing.

## ***Growth Management and Intensification***

### **Proposed Change:**

- The concept of strategic growth areas has been integrated from the Growth Plan and they are to be identified in official plans as the focus for growth.

- Large and fast-growing municipalities, including the Town of Oakville are defined and will be required to identify strategic growth areas in their official plans along with density targets.
- Major transit station areas are still considered strategic growth areas and have prescribed minimum density targets.
- The concept of an Urban Growth Centre is proposed to be removed from the policies but will persist as a defined term with strategic growth area policies applying.
- As mentioned, municipalities are expected to meet or exceed the Growth Plan 2051 minimum growth forecasts until such time that they can carry out their own growth forecasting.
- When updating an official plan, municipalities will be required to have enough land for at least 25 years with planning expressly allowed to extend beyond this horizon for infrastructure, employment areas and strategic growth area. This is a change from the previous “up to 25 years”.
- While not a change affecting the Town of Oakville directly, PPS 2023 proposes that settlement area expansions may be considered outside of an MCR process and that property owners have greater ability to apply for an expansion.

**Staff Response:**

- Staff notes that the proposed changes signal a fundamental change in growth management in Ontario and a return to pre-Growth Plan approaches.
- Staff notes that Oakville’s town-wide urban structure is comprised of strategic growth areas and major transit areas and have had minimum density targets identified through the ongoing official plan review.
- The proposed policies would require major transit station areas on inter-city rail to be planned for a minimum density target of 150 residents and jobs per hectare, including Midtown Oakville and Bronte GO.
- For major transit station areas served by light rail or bus rapid transit, the proposed policies would require a minimum density target of 160 residents and jobs per hectare, including the Trafalgar Urban Core, Dundas Urban Core, Uptown Core, Hospital District and Palermo Village.
- Staff notes that despite the changes proposed to lower certain minimum density targets, staff does not recommend changing any of Oakville’s current Minimum density targets, including Midtown Oakville at 200 residents and jobs per hectare. These targets remain critical to accommodate the province’s forecasted growth as planned in the town’s urban structure.
- Staff requests that the province clarify how municipalities are expected to implement policies of encouragement when before they were required policies. Will the province provide guidelines or will municipalities have to create a stand-alone approach?
- Staff is concerned that the proposed change to “encourage” rather than “require” intensification will limit the municipality’s ability to protect for long-

term employment growth to provide balanced support to a growing residential base.

- While the proposed changes are intended to deliver housing quickly, there remain concerns related to downloading of planning responsibilities to municipalities, unclear roles/responsibilities in the future and new challenges with long-term land use planning and growth management.

### ***Employment Areas and Land Use Compatibility***

#### **Proposed Change:**

- The definition of “employment areas” would be changed in both the proposed PPS 2023 and the *Planning Act*, to focus on heavy industry, manufacturing and large-scale warehousing. Other uses that can locate in mixed use areas, such as retail, commercial and office, would no longer be considered employment.
- Another proposed change is that employment land conversions would occur at any time, rather than through a comprehensive review process.
- The proposed changes increase flexibility for planning on employment lands, which would make it easier for sensitive land uses, such as residential development, to locate close to employment uses.
- The proposed policies for land use compatibility will focus on minimizing and mitigating impacts on industry and removing requirement to demonstrate “need” and a lack of alternative locations.
- As noted, the concept of provincially significant employment zones would be eliminated, however the province is considering alternative approaches to protect some of these lands, such as using Ministerial powers.

#### **Staff Response:**

- Staff is concerned that the proposed policies may reduce employment area protections. The proposed policies could result in residential uses encroaching on important employment areas causing an erosion of the town’s employment base.
- Conversely, the introduction of residential uses into employment areas may pose negative long-term impacts on the new sensitive land uses.
- Staff is supportive of increased flexibility for housing however, there are concerns regarding the use of these policies to advance ad hoc land conversion requests and the introduction of sensitive land uses in unanticipated areas.
- Furthermore, staff is concerned that unanticipated growth may conflict or undermine effective growth management practices that have successfully guided growth in the town.
- Staff notes that the Town’s Official Plan will require further updating and refinement to reflect “areas of employment” which could fracture the overall

employment functionality of an area and the supporting land uses which create viable employment areas.

- Additionally, staff are concerned that removing protections for employment areas to allow residential uses to mix with existing commercial uses, including retail and office, will begin to displace those commercial uses. A trend of this type would undermine employment opportunities in Oakville and impact the town's ability to attract employment opportunities for residents close to home.
- Staff notes that Oakville's workforce is highly educated and presents a competitive advantage for business attraction in the professional services sectors.
- Staff requests that the province provide further details and direction for criteria, methodology and locational considerations and approaches that would maintain protect of certain employment lands. A key component of this direction would be how to protect for employment opportunities outside of employment areas to support work-life balance and continue to provide for all aspects of a complete community.

### ***Climate Change and Environment***

#### **Proposed Change:**

- Generally, the proposed changes continue to loosen environmental protections and prioritize the increase of housing supply.
- The proposed policies would require municipalities to plan for climate change to reduce greenhouse gas emissions with a focus on improving air quality and apply an integrated approach to also plan for infrastructure and community facilities.
- Policies related to natural hazards are unchanged.
- In terms of the connections to Greenbelt policies, the province will introduce amendments to clarify that previous policies in the existing PPS 2020 and the Growth Plan will continue to apply in cases where the Greenbelt Plan refers to them.

#### **Staff Response:**

- Staff maintains dedicated support for environmental protection and carefully balancing the desire for increased housing with the responsibility to respond to climate change through the PPS 2023.
- The province should lead by example to demonstrate their commitment to enhance environmental protection, respond to climate change and promote a truly integrated approach to growth management.
- Staff remain concerned with the transition of planning responsibilities to local municipalities and potential loss of environmental expertise at the local level.
- Staff is encouraged by the province's intent to maintain implementation of Greenbelt Plan policies and continue to coordinate with other provincial plans.

## **Agriculture**

### Proposed Change:

- Generally, the proposed policies make significant changes to the development of lands in prime agricultural areas. For example, the changes remove the requirement for using the provincially mapped Agriculture System.
- The proposed changes also make it easier to build new housing. Municipalities will still designate and protect prime agricultural lands, however, the proposed policies make it easier to create up to two additional residential units in prime agricultural areas and up to three additional residential parcels, provided certain conditions are met such as existing access, appropriate frontage, etc.

### Staff Response:

- The proposed changes to prime agricultural lands do not directly impact Oakville, however, staff generally support a balanced approach across the province.

## **Cultural Heritage**

### Proposed Change:

- Minor changes and refinements are proposed to the Cultural Heritage and Archaeology policies in the PPS 2023.
- A comprehensive definition of “*protected heritage property*” is proposed.

### Staff Response:

- Staff does not have concerns with these proposed policy changes.

## **Natural Heritage**

### Proposed Change:

- Natural heritage policies are unchanged in the proposed PPS and remain under further consideration by the province. Any proposed changes would be released through a separate Environmental Registry of Ontario (ERO) posting.

### Staff Response:

- Staff will monitor for proposed changes related to natural heritage and will report to Council on such changes at a future time.

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## ***Implementation and Transition***

### **Proposed Change:**

- Language stating the municipal official plan is the most valuable tool for implementing the PPS is proposed to be removed from the policies but would remain part of the non-policy preamble.
- In terms of implementation, municipalities would be required to keep zoning by-laws and official plans up to date with the proposed PPS by establishing permitted uses, minimum densities, heights and other development standards in accommodate growth and development.
- In cases where municipalities must make a planning decision before their official plan has been updated to be consistent with the proposed PPS, it must still make a decision that is consistent with the new PPS.
- In terms of transition, the effective date will be specified in the future, subject to applicable provincial legislation. Any planning decision made on or after the effective date would be subject to the new PPS policies.
- Feedback is being sought on any specific transition issues. The province is proposing to release the final policies for a brief period before they take effect, targeted for fall 2023.

### **Staff Response:**

- Staff recommends that policies be maintained to support the official plan as the most important mechanism for implementing the PPS.
- Staff requests the province clarify official plan processes and procedures related to instances where a planning decision must be consistent with the new PPS in absence of an updated municipal official plan.
- To support clear implementation, Staff recommends the province review its defined terminology for existing and added terms related to housing, transit, environment and growth management.
- Opportunities should be maintained for all municipalities to provide feedback and staff welcomes the prospects of meaningful consultation to help inform changes from a local and context-sensitive perspective.

## **Regulation Through Bill 97: Site Plan for Residential Development of 10 or Fewer Units**

Two new regulations regarding site plan control are proposed through Bill 97, which could restore part of a municipality's ability to require site plan control that were previously taken away under Bill 23.

### **Proposed Change:**

If Bill 97 is passed and the regulations are made, the regulations would set out the conditions under which municipalities could use site plan control for residential

developments of 10 or fewer units on a single lot. The regulations being proposed would specifically permit the use of site plan for parcels of land where:

- any part of which is located within 120 metres of a shoreline; and
- any part of which is located within 300 metres of a railway line.

**Staff Response:**

Under Bill 23, the province proposed changes under section 41 of the *Planning Act* that exempts site plan control for any residential development with 10 units or less (e.g., a single-detached house, a townhouse development of 9 units, etc.).

This approach, based on the provinces' feedback received on Bill 23, was not conducive to certain contexts. As such, Bill 97 restores some ability to require site plan control in proximity to shorelines and railway lines, as noted above.

Under the Bill 23 regime, the town made comment to the province that the exemption of site plan control over such developments could result in grading, drainage and flooding possibilities for adjacent and downstream properties, safety issues with respect to inappropriate driveway locations and impacts on the road and traffic network, the inability to acquire identified hazard lands and associated buffers, along with identified road widenings. The cumulative impact could diminish and undermine environmental and flood mitigation protection, vehicular and pedestrian safety. The inability to require robust landscaping could undermine the municipal tree canopy objectives and establishing appropriate screening and buffering from adjacent properties.

Under the revised Bill 97 regime, these comments remain valid. However, having site plan restored in locations which are within 120 metres of a shoreline, and within 300 metres of a railway line, could help to alleviate some of these concerns, particularly for small housing developments in proximity to the Lake Ontario shoreline in the context of Oakville.

The process changes and impacts of Bill 23 and Bill 97 regarding site plan applications and development engineering site plan (DESP) including tree canopy and tree protection, grading and drainage as well as building permit and inspection will be the subject in a future report to Council.

**CONCLUSION AND NEXT STEPS:**

Staff is thankful for the opportunity to comment on Bill 97 and is hopeful that the 60-day comment period will provide the province with a wide range of thoughtful feedback from various stakeholders.

New challenges are ahead for municipalities regarding employment areas, growth management practices, infrastructure planning and settlement boundary policies. The overall shift to a pre-Growth Plan era could increase pressure for greenfield development across the province at the expense of growing in place within existing built areas.

Staff supports increased flexibility to build more housing, however there are concerns pertaining to the fast-pace and sweeping changes in direction to Ontario's planning framework. Given the significant provincial legislative changes over the last few years, staff recommends the province allow for a period of stability for municipalities to conform to the new planning regime.

## **CONSIDERATIONS:**

### **(A) PUBLIC**

The public may provide comments on Bill 97, the proposed Planning Policy Statement 2023 including matters and regulations discussed in this report through the related postings on the Environmental Registry of Ontario (ERO) website (<https://ero.ontario.ca/>) and Ontario's Regulatory Registry (ORR) website: <https://www.ontariocanada.com/registry>, as applicable.

### **(B) FINANCIAL**

There are no financial implications arising from the recommendation in this report.

### **(C) IMPACT ON OTHER DEPARTMENTS & USERS**

This report was prepared by staff from multiple departments.

### **(D) CORPORATE STRATEGIC GOALS**

This report addresses the corporate strategic goal(s) to:

- be accountable in everything we do,
- always act as a team,
- enhance our economic environment, and
- be the most liveable town in Canada.

### **(E) CLIMATE CHANGE/ACTION**

Staff is concerned about the adverse effects that Bill 97 and the proposed Provincial Planning Statement 2023 may have on environmental sustainability.



Prepared and Recommended by Staff from:

Planning Services,  
Development Engineering,  
Finance,  
Transportation & Engineering,  
Economic Development,  
Strategic Business Support and  
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