



Hamilton

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November 24, 2022

Ministry of Municipal Affairs and Housing  
777 Bay Street  
Toronto, ON M7A 2J3

**Re: Bill 23, More Homes Built Faster Act, 2022**

To Whom It May Concern,

On behalf of the City of Hamilton, I am pleased to provide this letter as Hamilton's submission regarding Schedules 2, 4, 5, 6, 7, 8 and 9 of proposed Bill 23, *More Homes Built Faster Act, 2022*. Given the short timeline provided to municipalities to comment on Bill 23, City of Hamilton (City) staff has assembled comments that highlights initial concerns that have the potential to impact the City.

The comments in this letter do not relate to Schedule 3 of Bill 23 for which City staff will be submitting comments under a separate letter.

The City agrees that too many people are struggling with the cost of living and that a solution to the housing crisis will take both short-term and long-term commitment from all levels of government, the private sector, and not-for-profits to drive change. The City supports the goal of communities growing with a mix of ownership and rental housing types to meet the needs of all Ontarians.

For the last 30+ 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 with the interests of applicants, public bodies and the public protected through notice and public meeting requirements, opportunities for meaningful engagement and participation, and protected appeal rights. The proposed *More Homes Built Faster Act* is a significant departure from this well-established planning framework.

The proposed legislative changes are contrary to balanced decision making, protection of the natural environment and parkland, building complete communities and public spaces, good quality architecture and design, and affordable or attainable housing. The legislative changes purport to be about building homes but show little regard for the other aspects that make Hamilton a unique and desirable place to live and the elements of making communities liveable and complete.

The City is facing a housing crisis and a climate crisis. The City has a responsibility to review existing practices and policies and adapt and make changes in the public interest. However, the proposal as presented by the Province fails to address the goals of increasing housing supply, housing affordability, and improved process and will result in the loss of environmental protections, heritage conservation, and urban design along with severe financial implications for the City, including the transfer of responsibilities from the Conservation Authorities to the City with no consideration of the financial and resourcing impacts this will have.

Over the last number of years, public participation in the land use planning system has been diminished, to the point where, through Bill 23, the public will have no appeal rights. Along with the fee refund requirements of Bill 109 provided decisions are not made within 90/120 days, the result is a shortened planning process with little to no opportunity for meaningful public engagement, participation and input into how communities are developed.

In summary, the City is not supportive of Bill 23 for the following reasons:

- Proposes to limit the role of the Conservation Authorities in development approvals to natural hazards only while uploading natural heritage reviews to municipalities;
- Weakens the conservation of land and protection of significant environmental features, allowing development within areas worthy of protection;
- Limits tools for the conservation of cultural heritage resources and may result in possible loss of significant local cultural heritage resources;
- Removes mechanisms to promote good architectural design and require sustainability features through the site plan control process;
- Eliminates appeal rights for the public on *Planning Act* applications and reduces overall public engagement and involvement;
- Restricts the ability to secure appropriate parkland and recreational amenities to meet community needs;
- Limits the City's ability to require replacement rental units, cash-in-lieu for replacement units, and other tenant supports when a conversion or demolition is proposed;
- May result in cost awards being made against the City where it is unsuccessful in an appeal at the Ontario Land Tribunal; and,
- Results in unilateral decision making to the Minister on matters of Provincial Interest and removes the ability of the City to engage with the minister to resolve issues.

Attached to this letter is a summary table of the City's comments on each of the proposed Schedule changes through Bill 23. City staff will be taking a report to Planning Committee on November 29, 2022 and to Council on December 7, 2022 outlining our submission. Council's position will be forwarded to the Province once it has been ratified.

The City supports the Province's goal of building 1.5 M homes over the next 10 years and tackling the affordability crisis affecting every Ontarian, however, the City has concerns that the changes proposed through Bill 23 will not effectively support these goals.

We look forward to seeing the results of the consultation on Bill 23. City staff would be pleased to meet with you to discuss these comments in greater detail.

Sincerely,



Jason Thorne, MCIP, RPP  
General Manager  
Planning and Economic Development Department  
City of Hamilton

Attachments (2)      Summary of Changes Proposed through the *More Homes Built Faster Act, 2022* (Bill 23)

Comments on Additional Environmental Registry of Ontario (ERO) and Ontario Regulatory Registry (ERR) Postings Accompanying Bill 23 – *More Homes Built Faster Act*

cc      Steve Robichaud, Director of Planning and Chief Planner

Proposed Bill 23		
Schedule 2 – Conservation Authorities Act		
Proposed Change	Provincial Explanation of Change	Comments
Updates to the regulation of development for the protection of people and property from natural hazards	Focus development approvals under the <i>Conservation Authorities Act</i> on the risk of natural hazards (including flooding) and addressing their relationship to municipal land use planning to ensure commitments and objectives of Ontario's Flooding Strategy are met.	<p>A single, new regulation is proposed to apply across all of the province's Conservation Authorities. This does not recognize the unique attributes of different regions of the Province. A better approach would be to create a clear implementation manual/guideline to ensure that a consistent approach is applied to policies/regulations.</p> <p>The definition of "watercourse" is proposed to be updated. This new definition (a defined channel having a bed, bank and sides) does not take into consideration important Headwater Drainage Features. It is recommended that the current definition be retained. It is likely that the proposed change will mean that appropriate setbacks and/or buffers will be eliminated or reduced.</p> <p>In some cases, man-made channels have naturalized over time and provide ecological functions and would therefore may not meet the newly defined watercourse characteristics even though these features provide an ecological function.</p> <p>It has been proposed that "other areas" in which the prohibitions on development apply will mean within 30 metres of all wetlands. The rationale for the change has not been clearly provided. In addition, this term has not been clearly defined.</p> <p>Low-risk activities have been proposed to be exempted from requiring a permit.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Updates to the regulation of development for the protection of people and property from natural hazards <b>Continued</b></p>		<p>This may reduce the review time freeing up staff for more complex permits. It is unclear how this would be implemented.</p> <p>It has been proposed that site-specific conditions attached to a permit would be limited to matters associated with natural hazards and public safety. Since development is to be prohibited in features such as watercourses and wetlands, which provide natural heritage functions, it is unclear why this would not be considered in the issuance of a permit. The limiting of conditions does not recognize that each site is different.</p> <p>Currently the CA is responsible for the update to the Regulated Area mapping and the provision of this information to municipalities. It should be confirmed that this function and process will continue.</p> <p>The City does not support the proposed changes.</p>
<p>Focusing Conservation Authorities' role in review of development related proposals and applications</p>	<p>Focus Conservation Authorities' role when reviewing and commenting on proposals, planning applications, and other matters related to development and land use planning to their core mandate to protect people and property from the impacts of natural hazards.</p>	<p>Conservation Authorities will no longer be able to review and comment on development applications and supporting studies on behalf of a municipality except as it relates to risks of natural hazards (core mandate) only.</p> <p>Natural hazards include control of flooding, erosion dynamic beaches or unstable soil or bedrock. Clarification is needed as to whether or not karst study is included in the review of bedrock.</p> <p>It is unclear if stormwater management review within regulated areas is within the list of other matters that the CAs will not be able to comment on. Clarification in this regard is needed.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Focusing Conservation Authorities' role in review of development related proposals and applications <b>Continued</b></p>		<p>The City of Hamilton is located within the boundaries of four Conservation Authorities (Conservation Halton, Grand River Conservation, Hamilton Conservation and Niagara Peninsula Conservation). A Memorandum of Understanding (MOU) has been established with all four Conservation Authorities to provide planning application and review services to the City. It is recognized that the City is the approval authority for <i>Planning Act</i> applications. The City's MOU with the Conservation Authorities will need to be revised to identify the commenting role (level) of the CAs in response to the proposed <i>Planning Act</i> and <i>CA Act</i> changes.</p> <p>The Conservation Authorities provide professional advice on development applications, generally aligning with the City's position. This is beneficial since it reinforces policy direction. They also provide expertise that municipalities rely on and avoids duplication of roles and activities (specifically with regards to wetland evaluation/delineation).</p> <p>Within the Planning and Economic Development Department (PED) there are two staff with specialized expertise in ecology/natural heritage planning and three staff with expertise in infrastructure planning engineering. If the Conservation Authorities role is reduced in scope, this could result in additional staffing resources within PED to complete the additional review function and possible delays in reviewing/approving applications due to resourcing.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Focusing Conservation Authorities' role in review of development related proposals and applications <b>Continued</b></p>		<p>It is unclear if additional training or funding would be provided to municipalities to address this gap.</p> <p>The City does not support the proposed changes.</p>
<p>Limit Conservation Authority appeals of land use planning decisions with respect to matters related to natural hazard</p>	<p>Limit Conservation Authority appeals of land use planning decisions except where they are the applicant and, when acting as a public body, with respect to matters related to natural hazard policies in the PPS. This is to take effect on January 1, 2023.</p>	<p>The Conservation Authorities' participation in appeals to land use planning decisions is important, specifically in areas where municipalities do not have the required expertise or where roles and responsibilities have been assigned based on the City-CA MOU.</p> <p>It is not clear how the skill gap will be addressed by the Province if municipalities do not have the resources and/or capacity to provide the expertise that the Conservation Authority staff currently provide.</p> <p>It is not clear if there are transition regulations proposed for applications already in process at the OLT.</p> <p>The City does not support the proposed changes.</p>
<p>Freezing Conservation Authority Fees</p>	<p>Amendments proposed to enable the Minister to direct a Conservation Authority to maintain its fees charged for programs and services at current levels intended to reduce the financial burden on developers and other landowners.</p>	<p>The fees charged by a Conservation Authority relate to cost recovery. Additional staff may be required to assist in expeditious review. It is unclear how these resources would be funded. This may result in a decline in service levels. Clear direction has not been provided.</p> <p>The proposed changes have not been defined how the Conservation Authorities will be funded with the proposed changes and how the existing MOU will change between Municipalities and Conservation Authorities.</p>

Proposed Change	Provincial Explanation of Change	Comments
Freezing Conservation Authority Fees <b>Continued</b>		<p>If the existing funding model is reduced and the ability for Conservation Authorities to charge for service is capped, this can lead to budgetary restrictions and a possible decline in service and quality of work.</p> <p>It is anticipated that the City's fee schedule will need to be reviewed and revised to recognize the additional level of review and added responsibility to the City as a result of the proposed <i>Planning Act</i> and <i>CA Act</i> changes.</p> <p>The City does not support the proposed changes.</p>
Identify Conservation Authority Lands suitable for housing and streamlining Conservation Authority severances and disposition processes that facilitate faster development	<p>Conservation Authorities own and manage over 145,000 hectares of land, which has been acquired from provincial grants issued under the <i>Conservation Authorities Act</i>.</p> <p>The Mandatory Programs and Services regulation (O. Reg. 686/21) requires Conservation Authorities to complete a conservation area strategy and land inventory of all lands that they own or control by December 31, 2024. This inventory would also identify Conservation Authority owned or controlled lands that could support housing development.</p> <p>This would result in the identification of additional lands that could be used for housing.</p>	<p>Lands that are owned by Conservation Authorities contain important features and functions that contribute to the Provincial Natural Heritage System (i.e., wetlands, woodlands, Ecologically Significant Areas, habitat for threatened and endangered species, significant wildlife habitat). These areas are also important in addressing climate change (flooding prevention, canopy cover, energy conservation).</p> <p>Lands owned by Conservation Authorities include public open spaces that are essential to the well-being of people. Conservation Authority lands that provide ecological services, stormwater management and open space passive recreational functions in the urban or rural settlement areas should not be considered for housing.</p> <p>During the Pandemic, nature and public space brought solace to the population of Hamilton and adjacent communities in Ontario. Unprecedented citizens traversed trail systems and parks across the Province.</p>



Proposed Change	Provincial Explanation of Change	Comments
<p>Identify Conservation Authority Lands suitable for housing and streamlining Conservation Authority severances and disposition processes that facilitate faster development <b>Continued</b></p>		<p>Removing greenspace/trail systems/parks from the Conservation Authority lands will remove a valued feature to Hamilton and other residents of Ontario.</p> <p>The City does not support the proposed changes.</p>
<p>Amend the <i>Planning Act</i> to expedite processes associated with the severance and conveyance of land environmentally sensitive lands</p>	<p>These changes would broaden the ability of a Conservation Authority to use streamlined processes to sever and dispose of land.</p>	<p>No Comment provided the intent is to facilitate the disposition of “surplus lands” that do not perform an ecological function and the unrequired lands will be utilized for agricultural or related uses.</p> <p>The City does not support the proposed changes.</p>
<p>Exempt development under the <i>Planning Act</i> from requiring a permit from municipalities set out in regulation, where certain conditions are met as set out in regulation</p>	<p>This exemption tool is not part of the regulatory changes but has been provided to assess how to streamline development approvals in the future while still ensuring the protection of people and property from natural hazards.</p>	<p>The proposed legislation would enable the exemption of development under the <i>Planning Act</i> from requiring a permit from the Conservation Authority under section 28 of the <i>Act</i>, within prescribed municipalities and where prescribed conditions are met. The prescribed municipalities where this exemption will apply will be identified through a future regulation.</p> <p>Should development be exempt from the requirement for a permit, CAs will no longer undertake enforcement and compliance reviews for matters where a permit is no longer required. The requirement for enforcement and compliance monitoring would fall to the City as an additional area of responsibility.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Exempt development under the <i>Planning Act</i> from requiring a permit from municipalities set out in regulation, where certain conditions are met as set out in regulation  <b>Continued</b></p>		<p>It is anticipated that additional City staff (infrastructure planning engineers, engineering review staff, enforcement and compliance staff) may be required to assist in the review of development applications and enforcement in the absence of permitting by the CA.</p> <p>Conservation Authorities are the authority for implementing Section 3.0 (Protecting Public Health and Safety) of the Provincial Policy Statement. To ensure that public health and safety is maintained, exemptions should not be applied.</p> <p>The City does not support the proposed changes.</p>
<b>Schedule 3 – Development Charges Act</b>		
Proposed Change	Provincial Explanation of Change	Comments
<p>To be discussed in a separate report for Audit, Finance and Administration Committee (Report FCS22085).</p>		
<b>Schedule 4 – Municipal Act</b>		
Proposed Change	Provincial Explanation of Change	Comments
<p><i>Municipal Act</i> Section 99.1</p>	<p>Under s.99.1 of the <i>Municipal Act, 2001 (MA)</i>, municipalities may enact by-laws to regulate the demolition or conversion of multi-unit residential rental properties of six units or more.</p> <p>Bill 23 proposes to amend Section 99.1 of the <i>Municipal Act</i> to allow the Minister to make regulations imposing limits and conditions on the powers of a local municipality to prohibit and regulate the demolition and conversion of residential rental properties.</p>	<p>The Province has not proposed any specific regulations at this time but has indicated that it will be launching consultations on this matter, with the goal of protecting renters while also allowing more housing to be built. The Province has indicated that requirements for replacement of demolished rental units could “prevent renewal, limit the supply of rental units and lead to deteriorating housing stock”.</p> <p>The City is currently conducting a review of the planning policy and process framework around conversions and demolitions of rental housing.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p><i>Municipal Act</i> Section 99.1 <b>Continued</b></p>	<p>To inform the content of these potential regulations, the Ministry is seeking input on whether and how municipal rental replacement by-laws may be impacting housing supply and renter protections (Ontario Regulatory Registry Posting 22-MMAH017).</p> <p>Specific questions in the request for input include:</p> <ol style="list-style-type: none"> <li>1. What types of requirements should municipalities be able to set around residential rental demolition and conversion?</li> <li>2. What types of requirements should municipalities not be able to set (e.g., are there requirements that pose a barrier to creating new or renewed housing supply or limit access to housing)?</li> <li>3. What impact do you think municipal rental replacement bylaws might have on the supply and construction of new housing?</li> <li>4. What impact do you think municipal rental replacement bylaws might have on renter protections and access to housing?</li> </ol>	<p>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 <i>Municipal Act</i> 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 (Report PED22091).</p> <p>The creation of regulations imposing limits and conditions on the powers of a local municipality may limit the City's powers to require replacement units, cash-in-lieu for replacement units, and other tenant supports when a conversion or demolition is proposed.</p> <p>The City does not support the proposed changes.</p>
<b>Schedule 5 – New Home Construction Licensing Act</b>		
Proposed Change	Provincial Explanation of Change	Comments
<p>Proposed amendments to the <i>New Home Construction Licensing Act, 2017</i></p>	<p>Proposing amendments to the <i>New Home Construction Licensing Act, 2017 (Licensing Act)</i> to address unethical behaviour by vendors and strengthen consumer protection for purchasers of new homes in Ontario who may be adversely impacted by price escalations and terminations of agreements.</p>	<p>No comment.</p>

Schedule 6 – Ontario Heritage Act		
Proposed Change	Provincial Explanation of Change	Comments
New powers of the Lieutenant Governor to make regulations to implement amendments to the <i>Act</i>	Section 71 of the <i>Act</i> authorizes the Lieutenant Governor in Council to make regulations governing transitional matters to facilitate the implementation of the amendments made in the Schedule.	<p>Draft regulations have not been posted for review and comment and as such it is unclear what implications will be of the Lieutenant Governor having the authorization to make regulations to implement the amendments.</p> <p>The ERO posting indicates that the intention is to modify Ontario Regulation 9/06 to require that a property meet two criteria to be worthy of Part IV designation and to also require that a property meet one criterion to be listed on the Register.</p> <p>The requirement for Part IV designated properties to meet two criteria is reasonable since most properties that are designated in Hamilton meet multiple criteria from Ontario Regulation 9/06. However, there may be properties that would only meet one of the criteria (eg. associated with a historical person) and therefore the properties could not be designated. For example, the former residence of the RT Honourable Lincoln Alexander is on the City's workplan for designation. The dwelling is a post-war building and may not meet multiple criteria for designation. However, these powers could allow the Lieutenant Governor to make additional changes to Ontario Regulation 9/06 and the other <i>Ontario Heritage Act</i> related regulations.</p> <p>The City does not support the proposed changes.</p>

Proposed Change	Provincial Explanation of Change	Comments
New powers to exempt public bodies from complying with Provincial standards and guidelines for conservation	New subsection 25.2 (7) authorizes the Lieutenant Governor in Council to, by order, exempt the Crown, a ministry or a prescribed public body from having to comply with the heritage standards and guidelines in respect of a particular property, if the Lieutenant Governor in Council is of the opinion that such exemption could potentially advance one or more provincial priorities, as specified.	<p>The new powers of the Lieutenant Governor could result in the loss of significant local cultural heritage resources such as Century Manor where provincial priorities are deemed more important, including transit, housing, health and long-term care, other infrastructure, and other non-heritage priorities.</p> <p>This reflects an approach contrary to the Provincial Policy Statement under the <i>Planning Act</i> which recognizes that heritage is a public good to be considered when balancing provincial interests in the name of good planning and sets a concerning precedent and the Province should lead by example through the long term protection of heritage resources.</p> <p>The City does not support the proposed changes.</p>
Heritage Register to be posted on City website	New subsection 27 (1.1) requires the clerk of the municipality to ensure that the information included in the register is accessible to the public on the municipality's website.	The City of Hamilton already complies with this requirement.
Increased threshold for listing non-designated properties on Register	Subsection 27 (3) is re-enacted to require that non-designated property must meet the criteria for determining whether property is of cultural heritage value or interest, if such criteria are prescribed.	<p>Properties recommended for listing on the Register would need to meet one criterion from Ontario Regulation 9/06.</p> <p>The City of Hamilton already complies with this requirement.</p> <p>The prescribed criteria are not yet known. It is presumed that the criteria will be Ontario Regulation 9/06, but the other proposed amendments provide the Lieutenant Governor powers to prescribe regulations and could change the criteria as we know them today.</p>

Proposed Change	Provincial Explanation of Change	Comments
Expansion of owner objection rights for properties listed on the Register prior to Bill 108 proclamation on July 1, 2021	Current subsection 27 (13) is re-enacted to provide that, in addition to applying to properties included in the register on and after July 1, 2021, the objection process set out in subsections 27 (7) and (8) apply to non-designated properties that were included in the register as of June 30, 2021.	<p>Owners of properties listed on the Register prior to July 1, 2021 would be able to object to listing, as per Section 27(7).</p> <p>The City of Hamilton already accepts owner objections to listings added before July 1, 2021.</p> <p>The City does not support the proposed changes.</p> <p>It is unclear if the City would be required to notify all owners already listed on the Register to advise them of their new objection rights under the <i>Act</i>.</p> <p>The City does not support the proposed changes.</p>
Removal of listed properties in certain circumstances	Section 27(14) would require Council to remove any listed properties from the Register that have been subject to notices of intention to designate that have been withdrawn, have not resulted in the passing of a by-law, or have had by-laws that have been repealed.	<p>It does not appear as though the City of Hamilton has any properties in this situation that would be required to be removed from the Register. However, this would be problematic as removing them from the Register may prevent the City from deciding whether or not to proceed with designation and if not from being able to require they be documented prior to demolition or removal.</p> <p>The City does not support the proposed changes.</p>
Introduction of two-year expiries for current Register listings	Section 27(16) – Council would have to remove any property already listed on the Register that have not had Notices of Intention to Designate (NOID) issued within two years of the proposed amendments coming into force and effect.	<p>Giving Register listing an expiry date is contrary to how the City of Hamilton uses this tool under the <i>Ontario Heritage Act</i>. Properties are placed on the Register to identify their heritage value or interest to ensure they are flagged for further review and consideration as part of development applications and planning studies and to ensure staff, the public, prospective purchasers and property owners are aware of the heritage interest of their property and can make informed decisions about how they are maintained and developed.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Introduction of two-year expiries for current Register listings <b>Continued</b></p>		<p>Inclusion on the Register also allows 60-days to consider designation and other measures (such as documentation) should an owner be proposing demolition of a building or structure on the property. The Register is also an important tool in flagging properties of heritage interest owned by higher levels of government that cannot be municipally designated under Part IV of the <i>Act</i>.</p> <p>There may also be impacts to the City's ability to add Cultural Heritage Landscapes of interest on the Register and ensure they are conserved through the <i>Planning Act</i> process.</p> <p>There are significant staffing and resource implications to addressing this legislative change. In order to ensure that properties already identified as candidates for Part IV designation are adequately protected, the City would need to review all of the 166 properties on the designation work plan and 2,345 properties currently on the Register and make recommendations to HMHC and Council as to whether they should be designated within two years of the proposed amendments coming into force and effect. Staff have historically, on average, been able to process four designations per year with the current resources. It is also anticipated that there will be increased appeals to the Ontario Land Tribunal that would require additional legal resources.</p> <p>The rationale for the limitations and restrictions being placed on the Register listing tool in assisting with the provision of more housing is not provided. Listed heritage properties in Hamilton currently account for less than 3% of all built parcels across the entire city.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Introduction of two-year expiries for current Register listings <b>Continued</b></p>		<p>Listing on the Register does not legally restrict the use of a property. The City of Hamilton's policies allow for and provide additional financial incentives to facilitate the adaptive reuse and intensification of listed properties, including 100% development charge exemption for new units in listed properties that are designated prior to the application of building permits.</p> <p>The Register has been developed through extensive community consultation and 1000's of hours citizen volunteer time.</p> <p>Given the above, the proposed expiry times for the Register will result in minimal new housing and may result in a loss of cultural heritage resources. Consideration should be given removing this provision of Bill 23 and not impose expiry times on the Register.</p> <p>The City does not support the proposed changes.</p>
<p>Introduction of two-year expiries for new Register listings</p>	<p>Section 27(15) – Council would have to remove any new properties listed on the Register after these amendments come into effect, that have not had notices of intention to designate issued within two years of them being listed.</p>	<p>The proposed changes to the <i>Act</i> imply that the Register's only use is as a placeholder for properties that may be candidates for Part IV designation under the <i>Ontario Heritage Act</i>. Introducing an expiry date diminishes the City's ability to proactively identify properties of heritage interest and ensure that significant heritage resources are conserved, as per the Provincial Policy Statement.</p> <p>The City does not support the proposed changes.</p>
<p>Introduction of five-year time limit to re-list a property on the Register</p>	<p>Section 27(18) – Properties removed from the Register in accordance with the new provisions above outlined in Section 27(14) to (16) would not be able to be listed on the Register again for five years.</p>	<p>This will leave properties of heritage interest vulnerable to demolition as part of the <i>Planning Act</i> process.</p> <p>The City does not support the proposed changes.</p>



Proposed Change	Provincial Explanation of Change	Comments
New restrictions for designating properties subject to prescribed events under the <i>Planning Act</i>	Section 29(1.2) – A property would need to already be listed on the Register in order for Council to be able to issue a Notice of Intention to Designate (NOID) within 90-days of a prescribed event under the <i>Planning Act</i> .	<p>The proposed two-year expiration on listing and five-year restriction on when properties can be re-listed will leave properties of heritage interest vulnerable to demolition as part of the <i>Planning Act</i> process. For example, a property of heritage interest that is currently listed may be automatically removed from the Register. This property would still be of heritage interest, but staff would not be able to list it on the Register again before a <i>Planning Act</i> application is submitted. A NOID could not be issued to protect it. This may result in a loss of cultural heritage resources.</p> <p>The City does not support the proposed changes.</p>
Consultation with Heritage Committee regarding the Register	Section 27(17) – Council would not have to consult with their Heritage Committee before removing properties from the Register in accordance with 27(14) to (16).	<p>Citizens, property owners, and members of the community have invested considerable volunteer time into the development of the Register as part of developing a shared understanding of the cultural heritage of their community and neighbourhood.</p> <p>A lack of transparency in decision making may contribute to a lack of trust in local government.</p> <p>The City does not support the proposed changes.</p>
New criteria for designating Heritage Conservation Districts	Subsection 41 (1) of the <i>Act</i> currently permits a council of a municipality to designate, by by-law, the municipality or any defined area of it as a heritage conversation district, if there is in effect in the municipality an official plan that contains provisions relating to the establishment of a heritage conservation district. The subsection is re-enacted to also require the municipality or defined area or areas to meet criteria for determining whether they are of cultural heritage value or interest, if such criteria are prescribed.	In order for new Heritage Conservation Districts (HCDs) to be designated, they would need to meet new prescribed criteria.

Proposed Change	Provincial Explanation of Change	Comments
New criteria for designating Heritage Conservation Districts <b>Continued</b>		<p>The proposed criteria are those identified for the evaluation of properties for individual designation under Part IV of the <i>Ontario Heritage Act</i> and are not in line with best practice for determining the cultural heritage value or interest of an area or landscape, or the criteria previously-identified in the Ontario Heritage Toolkit's Heritage Conservation Districts, A Guide to District Designation under the <i>Ontario Heritage Act</i>.</p> <p>The City does not support the proposed changes.</p>
New procedures for amending and repealing Heritage Conservation Districts	New subsections 41 (10.2) and (10.3) require a council of a municipality wishing to amend or repeal a by-law made under the section to do so in accordance with such process as may be prescribed; similar rules are added to section 41.1.	<p>The prescribed process and its implications are not yet known.</p> <p>The City does not support the proposed changes.</p>
<b>Schedule 7 – Ontario Land Tribunal Act</b>		
Proposed Change	Provincial Explanation of Change	Comments
Undue delay as ground for dismissal	Addition of discretionary authority to the tribunal to (on a motion or its own initiative) dismiss an appeal without a hearing if the Tribunal is of the opinion that the party who brought the appeal has contributed to undue delay of the proceeding.	<p>Provides responding parties, such as the City, with the ability to bring a motion to have an appeal dismissed where the appellant has caused unnecessary delay.</p> <p>The City does not support the proposed changes.</p>
Failure to comply with an order as grounds for dismissal	Addition of discretionary authority to the Tribunal to (on a motion or its own initiative) dismiss an appeal without a hearing if the Tribunal is of the opinion that a party has failed to meet an order of the Tribunal.	<p>Provides parties with the ability to bring a motion to have an appeal dismissed where the appellant has failed to meet a procedural order of the Tribunal.</p> <p>The City does not support the proposed changes.</p>

<b>Proposed Change</b>	<b>Provincial Explanation of Change</b>	<b>Comments</b>
Power to award costs against unsuccessful parties	Expansion of Tribunal's authority to award costs similar to a civil proceeding in which an unsuccessful party may be ordered to pay the successful party's costs on a motion or appeal proceeding.	<p>This could potentially result in cost awards being made against the City where it is unsuccessful in an appeal. However, it is yet to be seen how this new authority would be applied by the Tribunal.</p> <p>The City does not support the proposed changes.</p>
Prioritization of specific classes of proceedings	The Lieutenant Governor in Council may make regulations that prioritize the resolution of certain classes of proceedings.	Regulations may be passed that allow certain proceedings to be heard by the Tribunal in priority, or decisions issued in priority. A class of proceeding may be based on the type of development application or number of units, for example.
Prescribed OLT timelines	The Lieutenant Governor in Council may make regulations prescribing timelines with respect to steps taken by the Tribunal for specific classes of proceedings, but failure to meet those timelines do not invalidate proceedings. At the Minister's request, the Tribunal will report to the Minister.	Minister may require that the Tribunal report on the progress of certain proceedings.
<b>Schedule 8 – Ontario Underground Infrastructure Notification System Act</b>		
<b>Proposed Change</b>	<b>Provincial Explanation of Change</b>	<b>Comments</b>
	Proposed revisions include allowing the Minister of Public and Business Service Delivery to appoint the Chair of Ontario One Call's Board of Directors and appoint an administrator in certain circumstances.	No comment.

Schedule 9 – Planning Act		
Proposed Change	Provincial Explanation of Change	Comments
Appeal rights	<p>Limit third party appeals for all planning matters (Official Plans, Official Plan Amendments, Zoning By-laws, Zoning By-law Amendments, Consents and Minor Variances) to a “specified person” which is a proposed new definition. A “specified person” will still be required to satisfy the oral/written submission requirements in order to gain standing to appeal a decision.</p> <p>Appeal rights maintained for key participants (applicant, the Province, public bodies including indigenous communities, utility providers that participated in the process except where appeals have already been restricted.</p> <p>Limit on third party appeals would apply to any matter that has already been appealed to the Ontario Land Tribunal but has not yet been scheduled for a hearing.</p>	<p>Concerns with fully eliminating third party appeal rights. Suggest instead stronger and clearer criteria for determining frivolous and vexatious appeals be investigated to eliminate appeals that are not legitimate planning concerns. The appeal process should require the appellant to demonstrate proof that they have engaged the municipality in a fulsome way.</p> <p>Individuals who have filed an appeal in accordance with the <i>Planning Act</i> should retain their appeal rights.</p> <p>The City does not support the proposed changes to Bill 23 as first proposed.</p> <p>Note – Through proposed changes to Schedule 9 introduced by the Provincial Government on November 21, 2022, the elimination of third party appeal rights for Official Plans, Official Plan Amendments and Zoning By-law Amendments has been struck from Schedule 9.</p>
Restriction for residential units	<p>Additional term “parcel of urban residential land”.</p> <p>Official Plan Policies shall not prohibit:</p> <ol style="list-style-type: none"> <li>1. Two residential units in a detached house, semi-detached house or rowhouse on a parcel of urban residential land where there is one unit in an accessory structure;</li> <li>2. Three residential units in a detached house, semi-detached house or rowhouse where there is no residential unit in an accessory structure;</li> <li>3. One dwelling in an accessory structure where there is no more than two units in a detached house, semi-detached house or rowhouse.</li> </ol>	<p>The City has passed Zoning By-law Amendments to all former Municipal Zoning By-laws (Report PED22154) to allow for the conversion of existing dwellings to allow for a maximum of four units on a lot (including additional dwelling units – detached).</p> <p>With the new term “Parcel of urban residential land” the Rural Settlement Areas will require amendments to allow for conversions and a maximum of three units on a lot in accordance with the proposed regulations. Most rural properties are privately serviced and do not have capacity for accommodating additional dwelling units.</p>

Proposed Change	Provincial Explanation of Change	Comments
Restriction for residential units <b>Continued</b>	<p>Parking is restricted to one space per residential unit (under the "Restriction for Residential Uses" section.</p> <p>No appeal of policies/regulations to allow additional residential units.</p> <p>No minimum floor area for additional residential unit.</p>	<p>Hydrogeological and Storm Water Management studies will be required to determine constraints and whether the additional units can be serviced appropriately. As of right permissions for additional units will not allow for appropriate analysis to demonstrate the appropriate capacity is available on-site.</p> <p>The proposed changes minimize the City's ability to investigate impacts of additional units on the City's services and systems and the evaluation of the appropriateness for as of right permissions in both the Urban and Rural area.</p>
Public meeting - plans of subdivision	Remove the requirement for a statutory public meeting for draft plans of subdivision and make it optional.	<p>As proposed, these amendments may facilitate timely approvals and reduce the number of appeals to be considered by the Ontario Land Tribunal (OLT), the result is the diminishment of public engagement and consultation in the planning approvals process. However, no change has been proposed to the notice requirements of the <i>Planning Act</i> and a notice of a complete application will still need to be provided.</p> <p>The City does not support the proposed changes.</p>
Site Plan Control exemption for residential development up to 10 units	<p>Subject to subsection (1.3), the definition of "development" in subsection (1) does not include the construction, erection or placing of a building or structure for residential purposes on a parcel of land if that parcel of land will contain no more than 10 residential units.</p> <p>Exempt all aspects of site plan control for residential development up to 10 units.</p> <p>Scope the limit of site plan control to remove the ability to regulate architectural details and landscape design.</p>	<p>Currently there are several residential areas of the City subject to Site Plan Control to address issues of storm water, servicing, erosion and siltation control and tree removal. The process allows for site specific design discussions to satisfy these issues.</p> <p>This exemption will limit the City's ability to manage and implement stormwater and servicing standards including low impact design in existing neighbourhoods.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Site Plan Control exemption for residential development up to 10 units <b>Continued</b></p>	<p>A site plan control application submitted for approval prior to the date that Bill 23 comes into force is not subject to the new exclusions.</p>	<p>The City is currently allowing for small lot intensification in existing neighbourhoods which without oversight may result in major flooding and servicing issues. In the medium to long term this may limit the amount of new housing units that can be provided.</p> <p>Impacts to the City may include increased costs for emergency repairs and upgrades to existing stormwater and water and waste water infrastructure and limiting new development in areas where infrastructure is compromised.</p> <p>Adequate services must be ensured for all developments including those under 10 units. The Adequate Services By-law is part of the Zoning By-law. A process will need to be established that triggers review of adequate services through growth management and could be governed through the sewer/water/grading permit application. Fees for engineering review for complex applications, including stormwater management reports, water hydraulic analysis, and servicing studies will need to be reviewed. There could also be a requirement for an external works agreement to be triggered.</p> <p>A one-year transition period should be implemented to allow municipalities to develop plans and processes to address these concerns. Alternately the tools to allow municipalities to influence development to minimize flooding and ensure adequate services to neighbourhoods should be provided through enhancements to other legislation.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Site Plan Control exemption for residential development up to 10 units <b>Continued</b></p>		<p>Further, there is a concern that a development could be proposed in a piecemeal fashion to avoid the requirement for site plan control (ie apply for 10 units in 2023; 10 in 2024 etc.), particularly for lands that are already pre-zoned.</p> <p>The legislation should be modified to prohibit the site plan exemption for this type of piecemeal development approach.</p> <p>The City does not support the proposed changes.</p>
<p>Site Plan Control – exemption for exterior features of buildings including sustainable design features</p>	<p>Section 41 Subsection 4(d) which allowed for municipalities to influence the exterior design of buildings is to be deleted.</p> <p>“4(d) matters relating to exterior design, including without limitation the character, scale, appearance, and design features of buildings, and their sustainable design, but only to the extent that it is a matter of exterior design, if an official plan and a by-law passed under subsection (2) that both contain provisions relating to such matters are in effect in the municipality;”</p>	<p>The quality of public spaces is defined by the quality of the buildings that surround and define them. High quality public spaces are important for economic development, community pride of place and general health.</p> <p>This is especially important in areas undergoing intensification.</p> <p>This proposed change will severely limit the City’s ability to influence the character of public spaces. Expert staff and the volunteers of the Design Review Panel will be limited in their ability to work together with developers and their architects in a flexible manner to develop innovative design solutions that satisfy City standards and build community pride while providing housing.</p> <p>The City is working to address climate change. Buildings and development are a major contributor to climate change. The ability of the City to work with developers, their architects, and engineers to influence the sustainable design features of new development and to implement new standards will be severely limited by this change.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Site Plan Control – exemption for exterior features of buildings including sustainable design features <b>Continued</b></p>		<p>These changes may result in under performing public spaces, set back the municipality's goals for addressing climate change and result in over all lower quality housing.</p> <p>Consideration should be given to maintaining this item to apply to developments with significant impacts such as buildings over 6 stories in height or including 30 or more units.</p> <p>Further, clarification is needed on the authority to address sustainable technologies at the Site Plan Stage; e.g. LIDs, green infrastructure etc. Subsection 2(d) of section 41(4) of the <i>Planning Act</i> is being removed, but this section deals with exterior design of buildings.</p> <p>The exemptions from site plan control being added under Bill 23 do not specifically cite sustainable infrastructure / technologies. Staff are of the opinion that sustainable technologies will still be reviewable through site plan control but need confirmation of this interpretation.</p> <p>Note – Through proposed changes to Schedule 9 introduced by the Provincial Government on November 21, 2022, matters relating to building construction required under a by-law referred to in section 97.1 of the <i>Municipal Act</i> may be permitted. This section of the <i>Municipal Act</i> permits by-laws respecting protection or conservation of the environment and requires these buildings to be constructed in accordance with prescribed provisions of the Ontario Building Code.</p> <p>The City does not support the proposed changes to Bill 23, as proposed and modified by Committee.</p>



Proposed Change	Provincial Explanation of Change	Comments
Aggregate applications	Remove the two year “time-out” period in respect of mineral aggregate operations to amend a new official plan, secondary plan or comprehensive zoning by-law, unless the private application is permitted to proceed by a resolution of Council.	<p>Proposal allows amendments to come forward immediately after approval of comprehensive policies and zoning and may result in potential increases in aggregate resource applications during these first two years.</p> <p>The City does not support the proposed changes.</p>
Ministerial amendment of Official Plan	Revised subsection 23(1) allows the Minister to amend an official plan if the Minister is of the opinion that the plan is likely to adversely affect a matter of provincial interest. Procedural options have been removed.	<p>Proposal removes the current options allowing the Minister to contact the local Council to advise of the issue and provide a Council an opportunity to resolve the issue. Proposal removes the ability of the Minister to request an OLT hearing on their own, or upon request of an individual. This change gives unilateral decision making to the Minister on matters of Provincial Interest, removes the ability of the municipality to engage with the minister to resolve issues and removes opportunity for an independent hearing at the tribunal on an issue.</p> <p>The City does not support the proposed changes.</p>
Community Benefits Charges	<p>Section 37(32) is amended to establish the inclusion of a ratio of new development floor area to total floor area existing on the site to calculate the maximum prescribed Community Benefits Charge.</p> <p>A new section 37(32.1) exempts the floor area for affordable units, attainable units and inclusionary zoning units from the total floor area under development.</p>	Currently, the <i>Act</i> provides that the amount of a Community Benefits Charge payable shall not exceed the prescribed percentage of the value of the land as of the valuation date. Currently the prescribed rate is 4% of the land value on the date a building permit is issued. Where development or redevelopment is occurring on a parcel of land with existing buildings or structures, the maximum charge would be calculated based on the incremental development only.

Proposed Change	Provincial Explanation of Change	Comments
Community Benefits Charges <b>Continued</b>		<p>Maximum charges of 4% would be reduced by the ratio of floor area for new development, to the total floor area on the site. The effect of the change would be a charge that is only attributed to the development occurring.</p> <p>This is likely to reduce the charges for larger sites where development is proceeding in phases, understanding that future phases would be subject also to CBC charges but calculated on land at the time of the issuance of the building permit.</p> <p>Similarly, the ratio of floor area attributed to affordable, attainable, or inclusionary zoning units to total floor area of the development would reduce the charge from the prescribed rate.</p> <p>The City does not support the proposed changes.</p>
Parkland Dedication	<p>Subsections 4.3 through 4.39 set out a framework for owners of land to identify land to be conveyed to satisfy requirements of a by-law passed under the section. Owners can appeal to the Tribunal if the municipality refuses the conveyance of the identified land. Developer has to provide lands to “prescribed requirements”.</p> <p>Alternative rate for parkland dedication is halved – 1/600 for land, 1/1000 for Cash in Lieu.</p> <p>Alternative rate looks at “net residential units” not total new (i.e. the removal is factored in).</p> <p>Capped at 10% of land value, 15% of a parcel of more than 5 ha (deletion of transit oriented community clause – caps now apply to all).</p>	<p>This may result in “pocket parks” being conveyed rather than larger neighbourhood parks as is the desire of the City and outlined in our planning documents. Smaller parks are a higher cost to maintain, do not allow for diversity of amenities in each park (size restrictions), do not contribute as fully to neighbourhood cohesion as a gathering place for the residents, and may result in lower quality parcels of parkland across the City. It may limit the ability of the City to develop recreational amenities due to size restrictions.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Parkland Dedication <b>Continued</b></p>	<p>Exemptions for “affordable and attainable” units.</p> <p>Timing of land valuation is no longer at first building permit but based on value at time of site plan approval, or at time of rezoning.</p>	<p>Lands will be permitted to have easements, below grade infrastructure, etc. that will significantly impede the ability to update the parkland over time with amenities that are desired. Rather than a blanket change, the City as owner and operator should be the decision maker on a case by case basis. These changes will encumber parkland and be potential liabilities which will impede how the City designs and programs parks.</p> <p>The City does not support the proposed changes.</p>
<p>Major Transit Station Areas zoning</p>	<p>Proposed changes would require municipalities to amend their zoning by-laws to conform with official plan policies for Protected Major Transit Station Areas (establishment of minimum densities and heights) within one year of the official plan policies coming into effect. Zoning by-laws to implement PMTSA policies would only be subject to appeal if the municipality fails to enact zoning within one year of the relevant official plan policies coming into effect.</p>	<p>Currently, there are limited appeal rights of zoning by-law amendments enacted to implement approved official plan amendments establishing Protected Major Transit Station Areas (PMTSA). Those appeal rights will continue provided the zoning by-law amendments are adopted within one year of the subject official plan amendments coming into force. Failure to adopt implementing zoning would open up a future implementing zoning by-law amendment appeal.</p> <p>In Hamilton, the B-Line LRT corridor including areas around major transit station areas are already pre-zoned for higher densities. Studies to identify PMTSAs are underway with the intent to have MTSA and PMTSAs shovel-ready with additional zoning updates in place, as needed. In Hamilton, the proposed requirement will have no effect, however, many municipalities may be challenged to complete zoning within a year of policy coming into effect. Appeals to zoning would create further delay in implementing approved PMTSA policies.</p> <p>The City does not support the proposed change.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Inclusionary Zoning (ERO Posting 019-6173)</p>	<p>The <i>Planning Act</i> and O. Reg. 232/18 set out the legislative and regulatory requirements for municipal implementation of inclusionary zoning, including the authority for municipalities to adopt inclusionary zoning official plan policies and make inclusionary zoning by-laws.</p> <p>The proposed change to O.Reg. 232/18 would set an upper limit of 5% of the total number of units in a development that can be required to be affordable as part of inclusionary zoning.</p> <p>A maximum period of 25 years of which the inclusionary zoning units would be required to remain affordable is also proposed.</p> <p>Standards would be added for determining the price or rent chargeable for affordable housing units required under IZ.</p> <p>New sections 4.1, 4.2 and 4.3 specify that <i>Affordable housing</i> (generally defined as being priced at no greater than 80% of the average price/rent in the year a unit is rented or sold), <i>attainable housing</i>, and inclusionary zoning units are exempt from DC, CBCs and parkland dedication.</p> <p>“Attainable Residential Unit” is a new term being introduced:</p> <p>Section 4.1 (1) “attainable residential unit” means a residential unit that meets the criteria set out in subsection (4).</p>	<p>Beyond the prescribed minimum requirements, municipalities have flexibility and discretion to tailor their inclusionary zoning policies to their local context. Currently under the regulation, municipalities have the discretion to establish an affordability period, to determine the percentage of total units to be set aside as affordable, and to develop an approach to determining affordable prices/rents for inclusionary zoning units.</p> <p>City of Hamilton is currently undertaking studies to support the development of an Inclusionary Zoning framework and by-law. This change will reduce the scope of the studies as the affordable housing scenarios being considered for Hamilton will be reduced.</p> <p>An alternative approach would be to have the 5% set-aside rate and the 25-year affordability term apply to all municipalities. This would promote density and equity along higher-order transit corridors, creating a level playing field for standards across the province and reduce the burden of work and resources spent on establishing an inclusionary zoning policy framework.</p> <p>Further clarity is needed to understand how Parkland Dedication and Community Benefit Charges will be applied.</p> <p>Regarding exemptions, alternative revenue sources will be needed to accompany these exemptions as sources to pay for the municipal servicing infrastructure, soft services, and greenspace is still needed to build complete communities.</p>

Proposed Change	Provincial Explanation of Change	Comments
<p>Inclusionary Zoning (ERO Posting 019-6173) <b>Continued</b></p>	<p>Section 4.1 (4)</p> <p>Attainable residential unit</p> <p>A residential unit shall be considered to be an attainable residential unit if it meets the following criteria:</p> <ol style="list-style-type: none"> <li>1. The residential unit is not an affordable residential unit.</li> <li>2. The residential unit is not intended for use as a rented residential premise.</li> <li>3. The residential unit was developed as part of a prescribed development or class of developments.</li> <li>4. The residential unit is sold to a person who is dealing at arm's length with the seller.</li> </ol> <p>Such other criteria as may be prescribed.</p>	<p>It is clear that an “attainable residential unit” is different than an “affordable residential unit”, but clarity is still needed on what a prescribed development or class of developments is. This is essential in determining how an “attainable residential unit” is defined.</p> <p>The City does not support the proposed changes.</p>

## Comments on Additional Environmental Registry of Ontario (ERO) and Ontario Regulatory Registry (ERR) Postings Accompanying Bill 23 – *More Homes Built Faster Act*

### ERO Posting 019-6177 - Review of a Place to Grow and Provincial Policy Statement

#### Information

The Provincial Policy Statement, 2020 (PPS) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (A Place to Grow) both provide comprehensive, integrated, whole-of-government policy direction on land use planning matters including growth management, housing and economic development, infrastructure planning and investment, transportation, transit, energy supply and corridor protection. Both policy documents aim to support the achievement of liveable communities, a thriving economy, a clean and healthy environment and social equity. A Place to Grow builds upon the policy foundation of the PPS and includes policies that are specifically directed towards the unique context and issues in the Greater Toronto and Hamilton Area (GTAH).

The Province is undertaking a review of these documents to determine the best approach to enable municipalities to accelerate the development of housing and increase housing supply, including rural housing. The Province is proposing to integrate the PPS and A Place to Grow into a framework that:

- to elevates housing-supportive policies and remove or streamline policies to reduce duplication that causes delays or burden in the development of housing;
- ensures key growth management and planning tools are available to increase housing supply;
- continues to protect environment cultural heritage and public health and safety; and,
- ensures growth is supported with appropriate amount and type of community infrastructure.

While details of proposed changes have not been included, the Province indicates that key elements of a new policy framework could include the following:

*Residential Land Supply:* Streamlined and simplified policy direction on settlement area boundary expansions and employment conversions, and increased flexibility to enabling rural residential development.

*Attainable Housing Supply and Mix:* Policy direction to provide greater certainty that an appropriate range and mix of housing options and densities to meet projected market-based demand and affordable housing needs can be developed, particularly in Major Transit Station Areas and Urban Growth Centres.

*Growth Management:* Policies that enables municipalities to use the most current and reliable information on future population and employment forecasts to determine housing needs an employment land needs; policies that direct increase housing supply through intensification in strategic areas such as along transit corridors and major transit station areas; and policies that required large and fast growing municipalities to coordinate with major provincial investments in roads, highways and transit.

*Environment and Natural Resource:* Policy direction to provide continued protection of prime agricultural areas while creating increased flexibility to enable more residential development; streamlined policy direction on natural heritage, natural and human-made hazards, aggregates; and continued conservation of cultural heritage while creating flexibility to increase housing supply.

*Community Infrastructure:* Policy direction to increase flexibility for servicing and support for long-range integrated infrastructure planning; a coordinated policy direction to ensure publicly funded schools are part of integrated municipal planning and meet the needs of high growth communities.

*Streamlined Planning Framework:* More streamlined, less prescriptive policy direction through fewer studies and straightforward approach to assessing land needs focused on outcomes that focus on relevance to land use planning matters, provincial interests and ease of implementation.

### **Staff Comments**

There is no draft policy language presented at this time. Given the complexity of themes and general proposals identified, it will be important to understand the specific changes proposed and the extent to which streamlining and flexibility are incorporated into policies. Currently, the PPS and Places to Grow, provide a balanced approach to growth that protects natural heritage, cultural heritage, agricultural resources, and the environment. Changes focused on building housing is likely to alter the balance and impact other policy areas that are vital to building complete communities with healthy environments, strong economies and resiliency to the impacts of a changing climate.

There is uncertainty in whether or not the creation of a new policy document out of the PPS and A Place to Grow will actually increase the rate at which housing is developed. With the recent approval of many Municipal Comprehensive Reviews, municipalities, including Hamilton, will now be challenged to re-evaluate and further update their Official Plans to conform to a new Provincial planning framework. Such reviews take time and, in the absence of updated local planning instruments, could result in uncertainty and delays in building housing and achieving the new 2031 Municipal Housing Targets (ERO Posting 019-6171).

The Province could take a more strategic approach and instead of creating a new document at this time, focus on specific areas of the existing PPS and A Places to Grow that are most impactful for housing supply. To do this, deep consultation with municipalities and industry is required to ensure that unintended consequences of changes are avoided, and that changes will actually achieve the goals of building more homes faster.

In summary, the City of Hamilton does not feel there is a need to merge the documents as the current Provincial planning framework is balanced and appropriately guiding land use and infrastructure planning decisions through municipal plan conformity. Substantial changes to the documents will trigger a new round of conformity exercises and Municipal Comprehensive Review processes, likely leading to further delaying in aligning municipal plans to guide growth.

### **ERO Posting 019-6171 – 2031 Municipal Housing Targets**

#### **Information**

This ERO posting is a Bulletin and consultation is not required or being sought by the Province. The Province has assigned housing targets to 29 selected lower and single tier municipalities in Southern Ontario. The selected municipalities are to work towards achieving housing targets by 2031. The City of Hamilton is on the list.

Targets are based on current population as well as 2011 to 2021 growth trends. Municipalities located in Ontario's largest and fastest growing Census Division have been allocated the greatest share of the overall Provincial target of 1.5 million new homes.

For Hamilton, the Province has identified a target of 47,000 new units to be built by the year 2031. The City's increased housing target is required to assist in meeting the Provincial target of 1.5 million new units in this same period.

Municipalities must develop a Municipal Housing Pledge for achievement of this target. The pledge must detail how development of the new housing units will be supported through planning tools and strategies. Pledges may include, but are not limited to, priorities for site-specific planning decisions to expedite housing in priority areas, [plans to streamline the development approval process, commitments to plan, fund and build critical infrastructure to support housing and strategies to use municipal surplus lands.

#### **Staff Comments**

The previous housing target for Hamilton to 2031 of 35,000 households has been increased by 12,000 units to 47,000 units. The previous target was based on the *Greater Golden Horseshoe: Growth Forecasts to 2051* from Hemson Consulting on behalf of the Province and identified a net increase of approximately 110,000 households in the 2021-2051 time period. The Province has not indicated if the 47,000 households is part of the planned increase of 110,000 households, or if it is an additional 12,000 households (and thereby increasing the total to over 122,000 households for Hamilton).



No updated methodology for determining the increased housing targets for municipalities across Ontario has been provided as part of the announcement.

No details have been provided regarding any potential housing target changes for the years 2041 and 2051 which were previously provided by the Province.

No details are provided about what housing forms should be considered through the increased unit target to 2031.

There is no guidance provided on how the Municipal Housing Pledge should be developed, and whether it needs to be included in the Urban and Rural Official Plans, or if it is a standalone document.

In summary, while the Province is not consulting on the new housing targets, the City of Hamilton is not supportive of the issuance of new housing target as it is not understood what the new 2031 target of 47,000 households means with respect to Hamilton's overall growth management strategy and the approval of Hamilton's Municipal Comprehensive Review Official Plan amendments (Urban Hamilton Official Plan Amendment 167, and Rural Official Plan Amendment 34.).

### **ERO Posting 019-6167 – Proposed Revocation of the Parkway Belt West Plan**

#### **Information**

As part of the *More Homes Built Faster* initiative, the Provincial government is consulting on a proposal to revoke the Parkway Belt West Plan.

The Parkway Belt West Plan (PBWP) was Ontario's first provincial land use plan that came into effect in 1978. The PBWP crosses a number of municipalities in the Greater Golden Horseshoe including Hamilton, Halton Region, Peel Region, the City of Toronto, and York Region. The purpose of the Plan is to support growth and development with the following goals:

- Provide separation and definition of urban area boundaries;
- Create links between urban areas by providing space for movement of people, goods, energy, and information (e.g., Hwy 407, inter-urban transit);
- Provide a land reserve for future linear facilities (e.g., hydro corridors); and,
- Provide a system of open space and recreational facilities (e.g., public open space, golf driving ranges).

The Plan was implemented through municipal official plans, local zoning and Minister's Zoning Orders. Over the years, the Plan has been amended many times over its lifetime including policy and land use changes, re-designations, and removals of land from the Plan.

Provincial legislation, land use policies (e.g., the Provincial Policy Statement) and Provincial plans have provided a more modernized and up-to date policy framework that has resulted in the Parkway Belt West Plan becoming outdated. This includes policies in the Provincial Policy Statement and Provincial plans related to infrastructure, natural heritage, agriculture, parks and open space. If revoked, stakeholders would no longer have to apply for Plan amendments to permit uses or remove lands from the Plan.

### **Staff Comments**

In the City of Hamilton, the PBWP policies apply only to the area located, generally, between Highway 403 and the shore of Burlington Bay between King Street and the boundary of Hamilton and Burlington.

The PBWP map however indicates a larger area in Hamilton as part of the PBWP in Dundas on the north shore of Cootes Paradise in the Pleasantview area of Dundas and on the east side of Olympic Drive (Hydro Building and Olympic Park). Although those lands were previously subject to the PBWP, in accordance with Section 22.1 (1) of the Ontario Planning and Development Act, the PBWP shall cease to apply to lands that are part of the Niagara Escarpment Planning Area. Accordingly, the PBWP no longer applies to these lands as the lands were added to the Niagara Escarpment Planning Area through past NEP amendments.

The remaining area east of Highway 403 is designated “Open Space” and “Utility” in the Urban Hamilton Official Plan, and “Rural” in the Rural Hamilton Official Plan. Several Natural Heritage features are also present on these lands. The zoning is in accordance with the Official Plan designations.

The City has provided comments previously to Province requesting that the lands in Dundas area be removed from the PBWP as they are appropriately designated under local and other Provincial plans. Similarly, the lands between Highway 403 and Burlington Bay are appropriately designated to protect the natural open space, natural heritage and hazard elements of the lands as well as the highway and rail corridors that runs through this area. The additional layer of policy provided through the PBWP is not required.

The revocation of a the PBWP removes a layer of policy that has become redundant over the years.

In summary, the City of Hamilton has no objection to the revocation of the Parkway Belt West Plan as it applies to the lands within the City of Hamilton.

**ERO Posting 019-6161 - Conserving Ontario's Natural Heritage (Off-Setting)****Information**

The Ministry of Natural Resources and Forestry (MNR) has prepared a discussion paper and seeking feedback on how Ontario could offset development pressures on wetlands, woodlands, and other natural wildlife habitat. The MNR is considering developing an offset policy that would require a net positive impact on these features and help reverse the decades-long trend of natural heritage loss in Ontario. Creation of Policies to Offset Development Pressures on Wetlands, Woodlands, and Other Natural Wildlife Habitat.

In Ontario, natural heritage conservation is primarily implemented through the land use planning framework, including the Planning Act and the Provincial Policy Statement. Several provincial land use plans and statutes provide specific protections for natural heritage features, including wetlands. However, none of these incorporate provisions for offsetting, although some conservation authorities have developed their own policies.

Policies would provide further tools to make better land use decisions and help compensate for the loss of wetlands, woodlands, and other natural wildlife habitat in the Province

**Staff Comments**

Compensation/off-setting is a complex subject with many nuances. This has not been taken into consideration in the Discussion Paper. This is a slippery slope that could result in risks and uncertainties that could result in the loss and further fragmentation of the Natural Heritage System. This approach is not supported.

Clear direction for the use of a compensation/off-setting policy has not been provided. The risks of developing such a policy (or not developing a policy) has not been clearly identified. What are the pros and cons of an offsetting policy? In addition, it is unclear what scientific basis has been used to determine the appropriateness of such a policy.

Within the Discussion Paper, the term "net positive impact" has been used. It is unclear what is meant by this term since it has not been defined.

A more precautionary approach to the protection and enhancement of features/functions should be provided.

**Unique Areas**

The City of Hamilton has a long-standing tradition of protecting natural features. Historically, this protection was through the establishment of Environmentally Significant Areas within the former Region of Hamilton-Wentworth. Now, it is through the development of a Natural Heritage System that protects natural features and their functions within the entire City. The Discussion Paper does not contemplate that each area of the province is unique. A "one-size-fits all" approach is not appropriate.

**Ecological Functions**

As per the Provincial Policy Statement (PPS), the City of Hamilton has developed a Natural Heritage System (NHS), comprising of Core Areas and Linkages. The NHS was developed using the “systems” approach recognizing that the feature as well as its function is important. Fragmentation of the NHS has occurred in the past and may continue if features/functions are removed from the landscape. Compensation/off-setting may allow for isolated features to be incorporated into the broader NHS, however, it needs to be recognized that further fragmentation and loss of connection may result if the re-created features are not placed appropriately on the landscape. It is important to understand how newly created features/areas will be protected over the long-term.

The Discussion Paper indicates that compensation/off-setting would be available for all features (i.e., wetlands, woodlands, and other natural wildlife habitat). This suggests that some features may be less valued than others. It is also unclear if there is a hierarchy placed on provincially significant features above locally significant features.

Transferring natural heritage features/functions to other locations comes at great risk and uncertainty. Natural processes take many years to establish and there is no guarantee that compensation/off-setting would be successful in the long-run. More area may be required to ensure that the compensation/off-setting is successful. It seems that the exercise of off-setting may cause the loss of more potentially developable land to gain access for a particularly desirable location. With the amount of risk and difficulty in establishing a new feature and the extra land it would require, it would seem that designing with nature and keeping features in-situ is a model that would yield greater returns.

**Restoration Opportunities**

Within the Discussion Paper it has been identified that compensation/off-setting would be through intentional restoration. It is unclear why this approach cannot be achieved in part with a development application. Restoration of features/functions in-situ would be beneficial to the local biodiversity.

**Evaluation**

There may be several features that have not been identified on the landscape. It is presumed that evaluation of these features would be required (i.e., completion of an Environmental Impact Statement) as part of the development application and prior to compensation/off-setting. This has not been clearly discussed within the Discussion Paper. This assessment would provide an opportunity for a detailed review to determine if compensation/off-setting is appropriate.

**Public or Private Lands**

The Discussion Paper does not discuss whether compensation/offsetting would be limited to private lands or if public lands would be included.

### **Municipal Initiatives**

There are many City of Hamilton corporate initiatives that have been completed or in the process of being completed. This includes the Climate Change Action Plan and Biodiversity Strategy. While compensation/offsetting may provide opportunities to enhance actions of these strategies, it may hinder or conflict with the overall goals/objectives. This has not been taken into consideration in the Discussion Paper.

### **Principles to Consider**

The Province is considering the principles of “net gain”, “avoidance first”, “informed”, “transparency and accountability” and “limits to offsets” in development of an offsetting policy.

#### *Net Gain*

It has identified that the goal of the offsetting policy should be a “net gain”. This term has not been clearly defined. How does this term translate to on-the-ground application (i.e., increase in hectares, increase in feature type, increase in function)? How are time lags considered?

Within the current Provincial Policy Statement and the City of Hamilton’s Official Plans, the term “net gain” is not used or defined. The policies within these documents require that the applicant demonstrate “no negative impacts” on ecological function. The discussion paper does not clearly identify how this concept/terminology will be reconciled.

It is recommended:

- Clear definitions of “net gain” be provided;
- Clear guidance on how “net gain” relates to the “no negative impact test” be provided; and,
- Clear methodology/rules/principles to address the concept of “net gain” be provided.

#### *Avoidance First*

Through the principle of “avoidance first” it is assumed that the mitigation hierarchy is to be applied when considering compensation/off-setting. This approach is one approved by many agencies, however, it is not consistently applied in practice. The reality is that compensation/off-setting is often considered the first step (instead of the last) since it is the more convenient option. Specific principles/methodology to determine the adherence to the mitigation hierarchy test have not been included within this Discussion Paper. It is recommended that if this policy direction is adopted that each development application should incorporate requirements on how to demonstrate that the full mitigation hierarchy has been followed. This could be included within Environmental Impact Statements required to be submitted as part of a development application.

If policy direction for off-setting is to be identified by the Province, it is important that the policy be clear, concise, and focused on the limited circumstances where offsetting would be allowed. This would avoid abuse of the approach. A flexible and permissive policy is not desirable.

*Informed*

It has been identified that off-setting should consider the best available science and include Traditional Knowledge. A clear process on how this will be implemented has not been provided. It is recommended that the Province provided clear guidance on how to consult and incorporate Traditional Knowledge in the decision-making process.

*Transparency and Accountability*

It has been identified that a compensation/off-setting policy should incorporate provisions for oversight, tracking and public reporting. The roles and responsibilities of the Province and municipalities have not been clearly defined. The implementation of compensation/off-setting may require additional resources (i.e., personnel, funding).

It is unclear if agreements would be put in place to ensure that the work is completed. Any off-setting policies would need to include the responsibilities of the stakeholders. If municipalities were to administer this policy, a list of “areas of focus” for future off-setting initiatives should be created (e.g., areas that have been identified as needing restoration, expansion of features to ensure they maintain their integrity). It would need to be updated regularly but could be a way to streamline the process for off-setting. It is unclear how securities will be taken and the costing and implementation of the new proposed offsetting policies. A clear procedure should be developed if municipalities will be taking on this responsibility.

*Limits to Offsets*

It has been identified that some wetlands should be ineligible for offsetting due their functions as recreation/tourism areas. This does not consider the ecological functions of these features.

The focus of the Discussion Paper is on wetlands (certain wetlands-coastal wetlands, bogs and fens should be considered off-limits to offsetting). This does not contemplate that there are other features that take a long time to establish (i.e., woodlands) or that there are features of importance to a specific community. For example, the City of Hamilton has established Environmentally Significant Areas (ESAs). These areas are locally significant, representing diverse habitats that serve important ecological and hydrological functions.

Natural heritage features are identified in the City’s Official Plans and Zoning By-laws. Where development proposes to alter or remove a feature, then as part of the complete application, the required environmental reports and studies must be submitted. These are addressed by City staff, the applicable Conservation Authority and the City’s Environmentally Significant Areas Impact Evaluation Group (ESAIEG) who provides their advice to Committee and Council. Any offsetting policy must consider both the quantity and quality of the mitigation measures plus a temporal component. While a Provincial policy would assist in these considerations, given the unique and varied topographies in Hamilton it is more appropriate to do this on a case by case basis where avoidance cannot occur.

## ERO Posting 019-6160– Proposed Updates to the Ontario Wetland Evaluation System

### Information

The Province is proposing the following new changes to the content of the Ontario Wetland Evaluation Manuals:

1. Add new guidance related to re-evaluation of wetlands and updates to mapping of evaluated wetland boundaries;
2. Make changes to better recognize the professional opinion of wetland evaluators and the role of local decision makers (e.g. municipalities); and,
3. Other housekeeping edits to ensure consistency with the above changes throughout the manual.

### Staff Comments

1. New Guidance related to re-evaluation of wetlands and updates to mapping of evaluated wetland boundaries

The proposed changes are to provide greater certainty and clarity related to how significant wetlands are assessed and identified.

#### *Removal of Ministry of Natural Resources and Forestry (MNRF) Review*

The revised manual removes oversight of wetland evaluations from the MNRF. The revised manual does not provide clear roles/responsibilities for the evaluators or the decision makers. In addition, there will be added resources required from municipalities (i.e., personnel with expertise, funding) to implement these revisions to the manual. This does not allow for further streamlining of decisions.

#### *Wetland Re-Evaluation and Mapping Updates*

Wetlands that have been evaluated can be re-evaluated or a boundary can be updated. It is unclear if there is a timeframe for these updates (i.e., every 5 years).

It has been identified that the outer boundary of a wetland can be updated if new information is available. It is unclear who is responsible for ensuring that the boundary assessment is accurate (i.e., Conservation Authority, municipalities).

#### *Complete Evaluations*

It has been identified that a wetland evaluation, re-evaluation, or mapping update will be considered “complete” once it has been received by a decision maker. The definition of “complete” as well as “decision maker” has not been provided. It is unclear if the onus is now on municipalities (instead of MNRF) to review. This would result in addition resources (i.e., personnel with expertise, funding) to be provided.

Clear guidance on determining the information required for a “complete” evaluation has not been provided.

In addition, it has been identified that the wetland evaluator must ensure that the affected landowners are aware of changes to wetlands (i.e., new evaluations, revised wetland boundary). It is unclear how this will be implemented. The onus should not be on the wetland evaluator, it should be on the agency responsible for review.

#### *Field Visits*

It has been identified that field visits are an essential component of the evaluation. The appropriate timing for these visits is generic. General time frames for the beginning and end of the evaluation (i.e., October when the first hard frost occurs) should be included within the manual. This provides clear understanding of when these evaluations should be undertaken.

#### *Complexing of Wetlands*

The complexing of wetlands has been removed from the manual. This approach does not consider ecological/hydrologic functions of the wetlands. A clear rationale based on scientific data has not been provided on why wetland complexes should no longer be considered. It is recommended that the manual include these features.

#### *Habitat for Endangered or Threatened Species*

The consideration of habitat for endangered and threatened species has been removed from the manual. A clear rationale based on scientific data has not been provided. Since wetlands may provide habitat for endangered and threatened species, it should be considered in the evaluation.

2. Changes to better recognize the professional opinion of wetland evaluators and the role of local decision makers (e.g., municipalities)

The proposed changes are to allow for further streamlining of development decisions by removing the requirement for the ministry to review and confirm wetland evaluation results

It appears that the Ministry of Natural Resources and Forestry (MNR) will not be responsible for review and management of wetland records. The expectations/roles of the municipality are unclear.

The City of Hamilton relies on the expertise of Conservation Authorities to ensure that wetland boundaries are evaluated accurately. If the review of wetland boundaries is strictly with the evaluator this could lead to inaccurate boundary delineation. Accurate feature boundaries are imperative in determining limits of vegetation protection zones (VPZs)/buffers as well as required zoning limits. If municipalities are required to review the boundaries of these features, additional resources (i.e., personnel with expertise, funding) would be required.

Currently, the MNR is responsible for the management of wetland records. If MNR is no longer responsible for wetlands, it is unclear how these records will be managed. Clear directions have not been provided.



### 3. Housekeeping Edits

Edits are proposed to reflect consistency because of the additional changes indicated above

A conservative approach is to consider all wetlands as significant until an evaluation has been undertaken. This concept has not been outlined within the revisions. Policies within the Provincial Policy Statement restrict development and site alteration within Provincially Significant Wetlands (PSWs) and significant coastal wetlands, which reflects their importance on the landscape.

#### *Page 4 of the Revised Manual*

Recognition that the wetland evaluation is not a complete record has been proposed to be removed. There is concern with the removal of this information because it does not recognize that there may be further evaluation required. This should remain within the manual.

It has been identified that the results of the evaluation are used to evaluate whether a wetland has been identified as a PSW. Sections b) “to determine whether it is to be protected pursuant to the Provincial Policy Statement and c) for information about the specific values of a wetland have been removed. There is concern with the removal of these statements. Currently, within the PPS, PSWs are recognized as the most restrictive features (no development or site alteration is permitted within these features). This recognizes the importance of these features. Since the evaluation is to determine if a wetland is provincially significant, it is unclear why this would be removed. This should remain in the manual.

#### *Page 5 of the Revised Manual*

Recognition that the wetland evaluation is an essential cornerstone of wetland policies within the PPS has been proposed to be removed. Since this is the most recognized tool for evaluating wetlands, this should remain in the manual.

#### *Page 6 of the Revised Manual*

It has been identified that the manual sets out guidance for assessing wetlands. Since only those with specific training are to complete wetland evaluations, it is unclear if additional wetland training courses will be provided. How will this knowledge gap be addressed?

#### *Page 9 of the Revised Manual*

Information on the wetland evaluation components has been removed. This information is important for record keeping. This should be retained within the manual.

*Page 11 of the Revised Manual*

Sources of information have been removed from the manual. It is unclear why this information has been proposed to be removed since it provides beneficial secondary source material on the wetlands. It is recommended that this information remain in the manual.

*Page 23 of the Revised Manual*

It has been identified that the catchment basin map will not be used in the scoring of the Hydrological Component of the wetland. It is unclear why this has been proposed to be removed.

*Page 24 of the Revised Manual*

Instructions on completing the wetland evaluation data and scoring record have been removed. It is unclear how the information for each wetland will be collected. This section should remain in the manual.

*Page 33 Isolated (Site Type)*

By removing wetland complexing, there are several isolated wetland pockets that may be contributing to a larger system that run the risk of not being ecologically accounted for appropriately. If there is question of a groundwater connection further procedural details should be included within the manual describing the methodology of determining this connection.

*Page 63 of the Revised Manual*

Locally Important Wetlands have been removed from the manual. A clear rationale has not been provided. While these wetlands are not provincially significant, they do provide important habitat and should be included within the manual.

In summary, the City of Hamilton does not support the proposed changes because of the lack of clarity, lack of justification for the proposed changes, and resulting uncertainty as to process going forward.

### **ERR Positioning 22-MMAH018 - Seeking Feedback on Municipal Rental Replacement By-Laws**

**Information**

Under s.99.1 of the Municipal Act, 2001 (MA) municipalities may enact bylaws to regulate the demolition or conversion of multi-unit residential rental properties of six units or more. Bill 23 proposes to amend Section 99.1 of the Municipal Act to allow the Minister to make regulations imposing limits and conditions on the powers of a local municipality to prohibit and regulate the demolition and conversion of residential rental properties.

To inform the content of these potential regulations, the Ministry of Municipal Affairs and Housing (MMAH) is seeking input on whether and how municipal rental replacement bylaws may be impacting housing supply and renter protections (Ontario Regulatory Registry Posting 22-MMAH017).

Specific questions in the request for input include:

1. What types of requirements should municipalities be able to set around residential rental demolition and conversion?
2. What types of requirements should municipalities not be able to set (e.g., are there requirements that pose a barrier to creating new or renewed housing supply or limit access to housing)?
3. What impact do you think municipal rental replacement bylaws might have on the supply and construction of new housing?
4. What impact do you think municipal rental replacement bylaws might have on renter protections and access to housing?

### **Staff Comments**

The City of Hamilton is currently conducting a review of the planning policy and process framework around conversions and demolitions of rental housing and is considering a by-law under S 99.1 of the Municipal Act. 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 can strengthen the City's strategy to protect existing rental housing, particularly affordable rental housing. Consultations on a Section 99.1 By-law are still in progress and feedback reporting has not been completed. As such, final details of a proposed by-law, including potential conditions that could be applied, have not been determined.

The City has a strong interest in maintaining the authority to pass a by-law under Section 99.1 of the Municipal Act. This authority provides a mechanism which can assist with preserving rental housing stock, particularly rental housing stock with lower rent levels. The authority to set conditions on rental replacement such as tenant support in moving, temporary accommodation support and other forms of assistance which cannot be required through the Residential Tenancies Act (RTA) is important to help mitigate potential tenant impacts that a conversion or demolition proposal may cause. Relying on the RTA doesn't allow for these additional supports.

The City recognizes that providing additional housing supply within the system may create opportunities for individuals in existing rentals to move into a homeownership situation, and subsequently free up rentals. Proposed changes that look to create more rental supply (i.e. permitting up to three units on low density residential lots and proposed development charge changes that support the development of purpose built rental within the primary market) may also assist with improving rental market conditions.

1. *What types of requirements should municipalities be able to set around residential rental demolition and conversion?*

- To require retention of proposed converted units as rental units, at similar rents and for a defined term;
- Requirements that may help create a path towards ownership for existing tenants of a converted property;
- Requirements to replace the Rental Units proposed for Demolition at similar rents and for a defined term;
- Requirements for replacement units to have the same number of bedrooms at the removed units;
- Requirements that the owner of the Residential Rental Property engage tenants early in the process and provide clear notification to any tenants who reside in rental units affected by the approval of relevant provisions and rights in the Residential Tenancies Act, 2006. These measures would assist tenants in making informed decisions, including around accepting any “buy-outs”;
- Requirements securing tenants’ right to return to replaced rental units at similar rents (plus any Residential Tenancy Act rent increases), and associated notification requirements; and,
- Requirements for tenant assistance as may be necessary to reduce hardships, including but not limited to the following:
  - Assistance with finding alternative accommodations at similar rents and in a comparable location, if requested, for tenants displaced by a demolition;
  - Rent top-up payments, if needed, capped at defined amounts, to bridge the gap between current rent and rent for a new unit;
  - Financial support for moving and help with making arrangements, if requested;
  - If rental units cannot be replaced, requirements for a cash-in-lieu payment to the City to build affordable rental units elsewhere. A standardized method of calculating a rental replacement value may be beneficial, to provide certainty for costs;
  - Municipalities should have the ability waive certain requirements if there are multiple factors at play that may add additional costs to redevelopment, (i.e. Inclusionary Zoning and Rental Replacement requirements);
  - Permit the redevelopment of rental units by non-profit groups because this may secure rental units for longer periods of time and will provide predictability to renters; and,
  - Any other requirements or provisions reasonably related to minimizing the impact of the Demolition or Conversion on the City’s rental housing supply and on tenants.

2. *What types of requirements should municipalities not be able to set (e.g., are there requirements that pose a barrier to creating new or renewed housing supply or limit access to housing)?*

Municipalities should be permitted to maintain a broad range of powers to protect existing rental housing, particularly units with lower rents that represent a form of affordable housing. The ability to request tenant assistance and supports beyond the minimum compensation in the RTA should be maintained to ensure that impacts to existing tenants are adequately mitigated.

Additional data on market impacts of rental protection from municipalities with established by-laws would be useful to understand the pro forma impacts on the feasibility of developments.

3. *What impact do you think municipal rental replacement bylaws might have on the supply and construction of new housing?*

The key impact of municipal rental replacement bylaws is the protection of existing rental supply. Depending on individual situations and the extent of a by-law, conditions attached to conversion or demolition proposals could have varying levels of financial impacts for a development proposal. This could potentially direct more new housing development to sites that do not currently have rental housing. This may not result in any impact on the supply of new construction, but it may impact where in a city new development occurs.

It is noted that intensification on existing residential rental properties does not typically involve a full demolition of a rental building with more than six units. Often new develop occurs in the form of new units and/or buildings added to a property, in addition to existing units. This type of intensification should be encouraged as it allows for increased supply while also maintaining existing units.

4. *What impact do you think municipal rental replacement bylaws might have on renter protections and access to housing?*

The goal of creating new housing must be balanced appropriately with protecting those who are living in existing housing. Protecting existing rental housing stock ensures that residents remain housed. In particular, households with affordable rents are at greatest risk of housing instability due to a demolition. The City wants to ensure long term maintenance of rental stock while a permanent solution to the housing crisis is developed and maintained.

Restricting the scope of conditions and requirements permitted within municipal rental replacement bylaws may result in negative impacts to existing renters. Rental replacement by-laws can assist with addressing tenant impacts caused by conversions and demolitions that are not addressed through the RTA. This adds additional reassurance and predictability for renters that they will continue to have access to housing at similar rents, without major unanticipated costs and rent increases resulting from displacement.

In summary, the City of Hamilton does not support changes because protecting existing supply of affordable rental units is necessary to ensure we have balanced, inclusive communities.

**ERR Posing 22-MMAH016 – Proposed Building Code Changes to Support More Homes Built Faster: Ontario’s Housing Supply Action Plan:2022-2023 (Phase 3 Fall 2022consultation for the Next Edition of Ontario’s Building Code), and, ERO Posting 019-6211 - Proposed Changes to Sewage Systems and Energy Efficiency**

**Information**

Three groups of changes are proposed in association with ongoing program of developing an update Ontario Building Code. The first group of changes would amend the requirements in Ontario's Building Code for mid-rise wood buildings between four and six storeys to harmonize with current requirements in the National Building Code. The second group of changes would remove the current requirement for a standpipe system in a four-storey stacked townhouse. Through an associated ERO Posting 019-6211, technical changes are proposed for sewage systems and Energy Efficiency.

The current postings update requirements and increases harmonization between Ontario’s Building Code and the National Construction Codes, including the National Energy Code. The next edition of the Ontario Building Code is anticipated to be filed in Spring 2023, coming into effect in Spring 2024.

City of Hamilton Staff provide comment to the Province through participation on the Large Municipalities Chief Building Official group and the Ontario Building Officials Association.