

May 6, 2023

BY EMAIL TO: [PlanningConsultation@ontario.ca](mailto:PlanningConsultation@ontario.ca)

Our File No. 306443

The Honourable Steve Clark, Minister of Municipal Affairs and Housing  
Ministry of Municipal Affairs and Housing  
777 Bay Street, 17<sup>th</sup> Floor  
Toronto, Ontario  
M7A 2J3

Dear Minister Clark:

Re: **ERO No. 019-6821**  
**Bill 97, *Helping Homebuyers, Protecting Tenants Act*, 2023**  
**Woodbine Entertainment Group ("WEG")**  
**555 Rexdale Boulevard, City of Toronto**

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### i. Introduction

Please be advised that Aird Berlis LLP are counsel to Woodbine Entertainment Group (“**WEG**”), the owner of 555 Rexdale Boulevard in the City of Toronto (the “**Woodbine Lands**”). The Woodbine Lands are approximately 277 hectares (684 acres) in size and are generally bounded by Rexdale Boulevard to the north, Highway 27 to the east, Highway 427 to the west and the Metrolinx rail corridor to the south.

On April 6, 2023, the Minister of Municipal Affairs and Housing (the “**Minister**”) released Bill 97, the *Helping Homebuyers, Protecting Tenants Act, 2023* (“**Bill 97**”), which proposes to amend various sections of the *Planning Act, City of Toronto Act, 2006, Municipal Act, Development Charges Act, Building Code Act, 1992, Residential Tenancies Act, 2006, and Ministry of Municipal Affairs Act*. These changes are made in conjunction with a proposed new provincial plan that was also released on the same day as Bill 97, the Provincial Planning Statement (the “**New PPS**”), which is intended to combine both the current Provincial Policy Statement (2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020). Amongst the changes made in Bill 97 is the addition of a new definition for “Area of Employment” and a provision regarding its application in section 1 of the *Planning Act*. These changes in Bill 97 accompany the addition in the New PPS of the a similar definition for “Employment Area” and proposed policies regarding same.

The Minister is now seeking comments from the public on Bill 97 through the Environmental Registry of Ontario (the “**ERO**”). This consultation process for Bill 97 is known as ERO No. 019-6821.

**The purpose of this submission is to provide the Minister with our comments expressing general support for the new “Area of Employment” definition in subsection 1(1) of the *Planning Act* as well as to express our concerns about how the new definition may impact existing and permitted employment uses, such as stand-alone office and commercial uses, that are now expressly excluded from the definition. In particular, we respectfully recommend that the Minister coordinate the approval of the new “Area of Employment” definition in subsection 1(1) of the *Planning Act* with additional policies in the proposed**

**New PPS that provide greater clarity on the status of the designation of these employment uses that are now excluded from the definition of “Area of Employment”. In addition, we also respectfully recommend that the Minister make additional changes to the *Planning Act* that will provide a greater directive to municipalities, including the City of Toronto, to update their Official Plan designations and policies as well as their zoning regulations to be consistent with the new “Area of Employment” definition proposed in Bill 97 and the related policies of the New PPS.**

## **ii. Description of Woodbine Lands and Woodbine Employment Conversion Request**

The Woodbine Lands currently contain the Woodbine Racetrack complex, and ancillary/associated uses including slots and electronic gaming, off-track wagering, and various accessory buildings related to the racetrack operations, with extensive surface parking areas. An integrated entertainment complex is under construction on the Woodbine Lands along its Rexdale Boulevard frontage which includes a casino, a performance venue, two hotels, and associated parking structures.

The Woodbine Lands are designated *General Employment Areas and Core Employment Areas* in the Toronto Official Plan and also are subject to a comprehensive planning framework which provides permissions for non-employment uses, including residential and other sensitive uses. A master planning exercise initiated by WEG contemplates the comprehensive redevelopment of the Woodbine Lands to allow for the achievement of a mixed use community which could deliver more than 25,000 housing units and over 17,000 jobs. This master planning exercise has been undertaken in the context of WEG’s ongoing discussions with Metrolinx to ensure the timely delivery of a GO station, parking facilities and a bus hub within the Woodbine Lands. Ensuring transit supportive densities – both residential and employment – are delivered in tandem with higher order transit is a cornerstone of the Transit Oriented Communities (“**TOC**”) approach to planning which WEG has embraced for the Woodbine Lands.

On July 30, 2021, an employment area conversion request was submitted on behalf of WEG to the City in respect of the Woodbine Lands as part of the City’s Municipal Comprehensive Review (“**MCR**”) process (the “**Woodbine Conversion Request**”). Following the approval by the City of the first tranche of employment conversion requests on July 22, 2022 through Official Plan Amendment No. 591 (“**OPA 591**”), WEG made a further submission dated February 3, 2023 in support of its conversion request.

## **iii. Submissions and Recommendations on Bill 97 Definition of “Area of Employment”**

Bill 97 proposes to amend subsection 1(1) of the *Planning Act* to add the following new definition for “Area of Employment”:

“area of employment” means an area of land designated in an official plan for clusters of business and economic uses, those being uses that meet the following criteria:

1. The uses consist of business and economic uses, other than uses referred to in paragraph 2, including any of the following:
  - i. Manufacturing uses.

- ii. Uses related to research and development in connection with manufacturing anything.
- iii. Warehousing uses, including uses related to the movement of goods.
- iv. Retail uses and office uses that are associated with uses mentioned in subparagraphs i to iii.
- v. Facilities that are ancillary to the uses mentioned in subparagraphs i to iv.
- vi. Any other prescribed business and economic uses.

2. The uses are not any of the following uses:

- i. Institutional uses.
- ii. Commercial uses, including retail and office uses not referred to in subparagraph 1 iv; (“zone d’emploi”)

A nearly identical definition has also been added to the proposed New PPS for the term “Employment Area”.

The intention of the new *Planning Act* definition of “Area of Employment” is explained in an accompanying document titled “Proposed Approach to Implementation of the proposed Provincial Planning Statement” dated April 6, 2023 (“**Implementation Guideline**”). It explains that the intention of the definition is to exclude institutional and commercial uses (including retail and office) from being designated as “Area of Employment” in municipal official plans. This will function to have “Area of Employment” designated scoped to only those employment uses that cannot locate in mixed-use areas and require protection against conversion (such as heavy industry, manufacturing, and large-scale warehousing).

**WEG generally supports the new definition of “Area of Employment”, as institutional and commercial uses – including retail and office – are compatible with mixed use development (including in combination with residential uses) and do not require the same protection from conversion as more intensive forms of employment uses.**

However, WEG is concerned that the amendments proposed by Bill 97 and the policies included in the New PPS do not provide sufficient guidance on the status and resulting designation of current lands with employment designations in a municipal Official Plan that have existing or permitted institutional and commercial uses that are now expressly excluded from the definition of “Area of Employment”. For example, portions of the Woodbine Lands, which are currently designated *General Employment Areas and Core Employment Areas* in the Toronto Official Plan, contain commercial and entertainment uses or have permissions for many such uses, along with residential and other sensitive uses, in addition to permissions for uses that remain included in the “Area of Employment” definition.

Bill 97 proposes to add the following as new subsection 1(1.1) to the *Planning Act*.

### **Area of employment**

(1.1) An area of land designated in an official plan for clusters of business and economic uses is an “area of employment” for the purposes of this Act even if the area of land includes one or more parcels of land whose use is excluded from being a business and economic use under paragraph 2 of the definition of “area of employment” in subsection (1) provided that the following conditions are satisfied:

1. The parcels of land in question are subject to official plan policies authorizing the continuation of the use.
2. The use was lawfully established on the parcel of land before the day subsection 1 (1) of Schedule 6 to the *Helping Homebuyers, Protecting Tenants Act, 2023* came into force.

While the new subsection 1(1.1) above provides for the continued designation of institutional and commercial uses as “Areas of Employment”, it only does so where a municipality’s Official Plan has been updated to contain policies authorizing the continuation of these uses. There is no explanation of what status these lands hold where no such Official Plan policies exist, or if continuation is to be interpreted on a site-specific basis or through broader land use designation policies. In addition, this proposed provision is not consistent with the intention of the proposed new definition, which is to remove lands that can be used for institutional and commercial uses from the restrictive “Areas of Employment” designation in municipal Official Plans.

Furthermore, although the Implementation Guideline accompanying these changes states that, “municipalities should update their official plans to explicitly authorize the site-specific permission of any existing uses that do not align with the new definition”, neither Bill 97 nor the New PPS proposes any changes that would require municipalities to undertake these updates more quickly.

**WEG respectfully submits that greater guidance on the application of the new “Area of Employment” definition is required. We therefore recommend that the Minister coordinate the approval of the new “Area of Employment” definition in subsection 1(1) of the *Planning Act* with additional policies in the proposed New PPS that provide greater clarity on the status of the designation of lands with existing or permitted institutional and commercial uses that are now excluded from the definition of “Area of Employment”.**

**In addition, a strong legislative and policy directive requiring municipalities to expediently update their Official Plan designations and policies, as well as their zoning regulations, to be consistent with and implement the new “Area of Employment” definition proposed in Bill 97 and the related policies in the New PPS is needed. We therefore recommend that the Minister further amend the *Planning Act* and the New PPS to require municipalities update their Official Plans and zoning by-laws within a defined timeframe.**

#### **iv. Conclusion**

We thank you for the opportunity to provide comments on the proposed Bill 97.

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Please note that WEG intends to make further submissions regarding the policies of the New PPS, and in particular the policies related to "Employment Areas" in that document, through the ERO consultation process known as ERO No. 019-6813.

Finally, WEG and its consultant team, including our office, would be pleased to provide any additional information or materials, or take part in any discussions, which may assist the Minister in the consultation processes regarding Bill 97 and the New PPS.

Yours truly,

AIRD & BERLIS LLP



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