



March 20, 2024

Via E-Mail: Paul.Calandra@pc.ola.org

The Honorable Paul Calandra
Minister of Municipal Affairs and Housing
Queen's Park, Main Legislative Building, Room 223
Toronto, ON M7A 1A8

sleisk@cassels.com
tel: +1 416 869 5411
file # 35977-19

Dear Minister Calandra:

**Re: City of Peterborough Official Plan (the “Official Plan”)
Get It Done Act, 2024, Amending the *Official Plan Adjustments Act, 2023*
ERO Number: 019-8273**

We are the solicitors for Brookfield Properties (“Brookfield”), the owner of lands located on the west side of the City of Peterborough, on the municipal boundary with the County of Peterborough, as shown on the attached schedule as: (1) on the west side of Brealey Drive, generally between Sherbrooke Street and Parkhill Road West (the “Stenson Lands”); (2) on the west side of Brealey Drive, north of Kawartha Heights Boulevard (the “Brealey Lands”); and (3) on the west side of Brealey Drive, south of Sir Sandford Fleming Drive (the “Campbell Lands”) (together, the “Subject Lands”).

We are writing to provide our comments regarding *Bill 162: Get It Done Act, 2024*, Schedule 3 (“Bill 162”), which amends the *Official Plan Adjustments Act, 2023* to retroactively reinstate municipally requested modifications to official plans across the Province, including the City of Peterborough. Brookfield has reviewed Bill 162 and is concerned that the land use permissions and transition policies initially introduced by the Minister are not proposed to be reinstated. Our client’s comments are further detailed below.

Brief History

By way of background, Brookfield submitted official plan, zoning by-law and plan of subdivision applications to permit development of the Brealey Lands in 2011 for residential uses. The applications were subsequently appealed to the former Ontario Municipal Board in 2012 (PL120851). The proposal was to create a development that included lands in the City as well as in the adjacent County of Peterborough. As the proposal was a combined plan for lands in the City and the County, the appeal was held in abeyance to be consolidated with various matters outstanding in the County.

Moreover, as the Province may be aware, the lands subject to the applications were also subject to annexation discussions between the municipalities which took place over years, and for which the Provincial Facilitator was previously engaged.

While Brookfield continues to support a comprehensive solution to planning in the region and the potential annexation of its lands to the City of Peterborough, in the interim, the applications remain pending and Brookfield intends to redevelop such portion of its lands within the City in the near term.

Proposed Bill 162 Amendments

Proposed Down-Designation

The City's Official Plan, as adopted by City Council, proposed a redesignation of the Brealey and Stenson Lands from Residential to Rural Transitional Area, which would effectively remove these lands from their current designated greenfield area status, despite the City's need for additional lands for development over the long term. In addition, the proposed redesignation of the Campbell Lands from Agriculture to Rural Transitional Area is similarly problematic as the current Agriculture designation permits urban development.

In the Minister's Notice of Decision approving the Official Plan with modifications on April 11, 2023, the lands designated Rural Transition Area were included within the Designated Greenfield Areas (Modifications 2, 3 and 61). In addition, the term "excess lands" was removed from the Official Plan entirely and no longer used to describe the Rural Transition Area (Modifications 4, 5, 28, 30, 40, 57), the Official Plan was modified to permit development within the Rural Transition Area without the need for a municipal comprehensive review (Modification 29), and the requirement to provide Land Needs Assessment updates for the Rural Transition Area was removed (Modification 45). We understand that Bill 162 does not propose to reinstate such modifications, which were rolled back through the *Official Plan Adjustments Act, 2023*.

Since the applications for the Brealey Lands were filed in 2011, Brookfield has indicated their intent to develop their lands. In fact, supplementary materials were filed with the City on May 17, 2022 in response to staff comments. In the context of the City's policy direction on Rural Transitional Areas, the location of these lands is appropriate for development and development would not be constrained by physical features. In our view, the proposed down-designation is entirely inconsistent with the Province's stated intention of constructing 1.5 million homes over the next 10 years to address Ontario's housing crisis. For these reasons, these lands should not be redesignated as Rural Transitional Area and we request that the Province amend Bill 162 accordingly.

Transition Policy

The Minister also introduced the following transition policy in its Notice of Decision dated April 11, 2023 ("Modification 56"):

Applications deemed complete prior to the approval of this Plan by the Ministry of Municipal Affairs and Housing may continue towards final approval under the policy framework in place at the time the Notice of Complete Application was issued. This would include any subsequent implementing approvals.

Modification 56 was removed through the *Official Plan Adjustments Act, 2023*. We understand that the City confirmed its support for Modifications 56 in its correspondence to the Ministry of Municipal Affairs and Housing dated December 5, 2023 (attached hereto). As set out in the attached letter, the City expressed its support for this modification as it provides greater certainty in the transition of current development applications and is consistent with the City's current approach for processing development applications. Despite the City's support, Bill 162 does not reinstate Modification 56.

In our view, Modification 56 provides the clarity and certainty needed to facilitate a streamlined planning process. The transition policy will provide applicants with complete confidence that development applications will be subject to the policy framework in place at the time the applications were made and not new, potentially more restrictive policies, without the need to rely on common law principles. Modification 56 also provides the clarity needed to seamlessly transition to a new Official Plan and avoid any administrative challenges when processing applications under former policy regimes. As Modification 56 is consistent with the City's current approach, Brookfield supports the City's request to reinstate such modification and urges the Province to amend Bill 162 accordingly.

We are grateful for the opportunity to provide you with our comments and would be pleased to discuss in more detail.

Yours truly,

Cassels Brock & Blackwell LLP



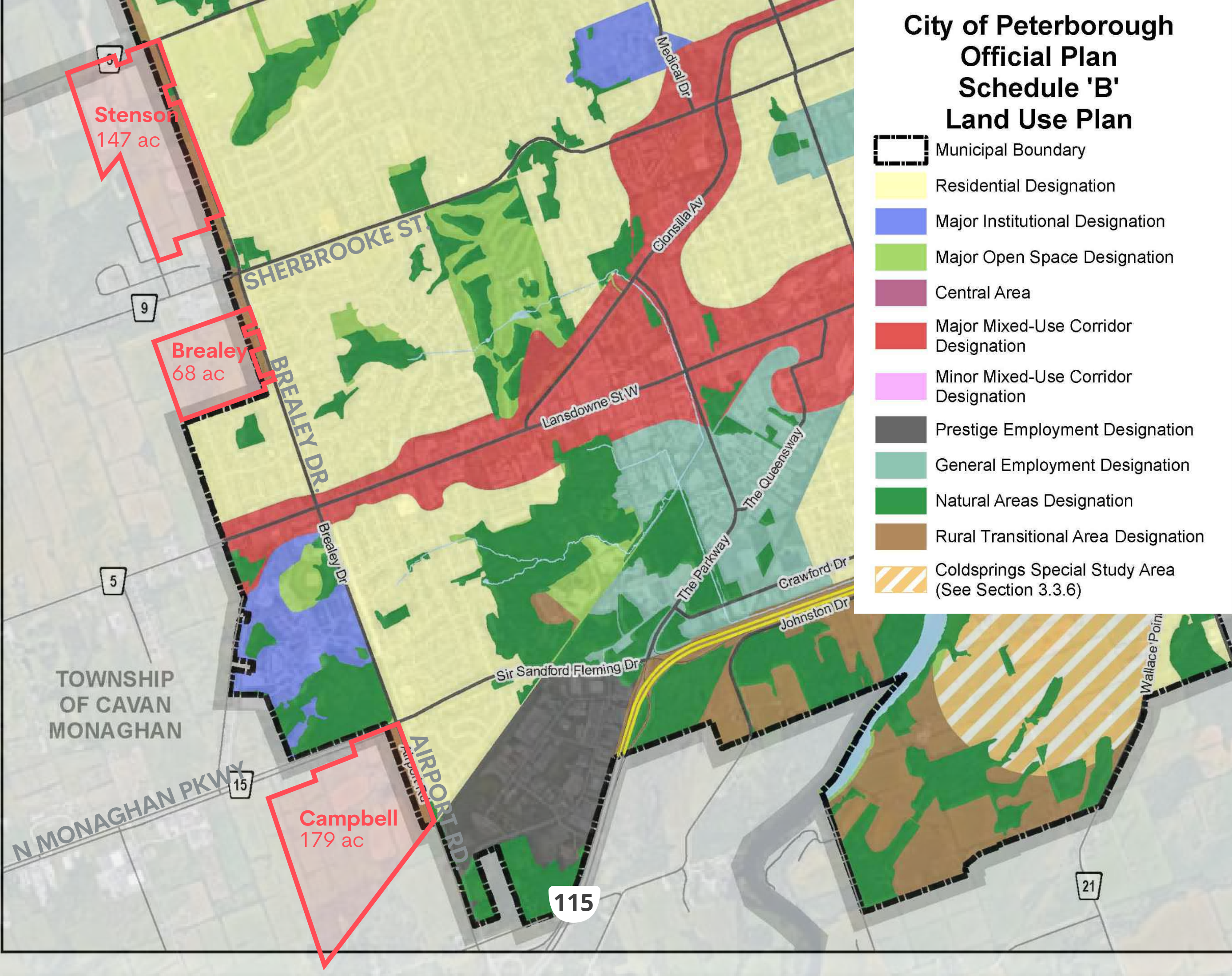
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SL/MK
Encl.

CC: Municipal Services Office - Central Ontario (mmahofficialplans@ontario.ca)
Brad Appleby – City of Peterborough (bappleby@peterborough.ca)

City of Peterborough Official Plan Schedule 'B' Land Use Plan

-  Municipal Boundary
-  Residential Designation
-  Major Institutional Designation
-  Major Open Space Designation
-  Central Area
-  Major Mixed-Use Corridor Designation
-  Minor Mixed-Use Corridor Designation
-  Prestige Employment Designation
-  General Employment Designation
-  Natural Areas Designation
-  Rural Transitional Area Designation
-  Coldsprings Special Study Area (See Section 3.3.6)



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December 5, 2023

Martha Greenberg, Deputy Minister
Ontario Ministry of Municipal Affairs and Housing
College Park, 777 Bay Street
Toronto, ON M7A 2J3
martha.greenberg@ontario.ca

Dear Ms. Greenberg:

Re: Reversal of Provincial Decisions on Municipal Official Plans/Official Plan Amendments and ERO019-7885 (Planning Statute Law Amendment Act, 2023)

I am pleased to provide this letter in response to the Minister Calandra's announcement on October 23, 2023 and follow-up letters dated November 2, 2023 and November 16, 2023 requesting information about the previous Minister's modifications made on April 11, 2023 to the City's Official Plan and feedback on the proposed **Planning Statute Law Amendment Act, 2023**. The information requested in the November 2, 2023 letter is outlined below:

1. Circumstances or projects where construction has already begun in relation to the official plan or official plan amendment decisions, particularly those projects that are directly reliant on the modifications made to the plan through the ministry's decision

Not applicable; there are no circumstances or projects where construction has already begun in relation to the official plan decision, particularly those that would be directly reliant on the modifications made to the plan through the Ministry's decision.

2. If there are changes that the municipality would like to see made to the official plan, based on the modifications that the province had previously made, and which you support

Please see the **Attachment** to this letter for the City's feedback on the Minister's modifications. The City has stated "Retain the Minister's modification(s)" for those modifications that are supported by the City and/or where in the City's opinion, the modifications are necessary to protect matters of public health and safety or are required to align with legislation or regulations.



ERO019-7885 – Planning Statute Law Amendment Act, 2023

Per the proposed **Planning Statute Law Amendment Act, 2023**, the modifications numbered 9, 10 and 42 are to remain in the City of Peterborough Official Plan; the City supports retaining these modifications and has excluded them from further comment/consideration in the **Attachment**.

The City is supportive of the proposed immunity provisions intended to mitigate the legal risk resulting from the legislation. While it is understood that no specific changes to Minister's Zoning Orders are currently being made, the City requests that the Province continue to consult with municipalities as the Ministry reviews a "use it or lose it" policy.

As the proposed legislation has retroactive effect, the City would also appreciate any clarification regarding the requirement under the **Planning Act** to amend of the Zoning By-law within three years of the Official Plan coming into effect to ensure that they conform with the Official Plan.

Conclusion

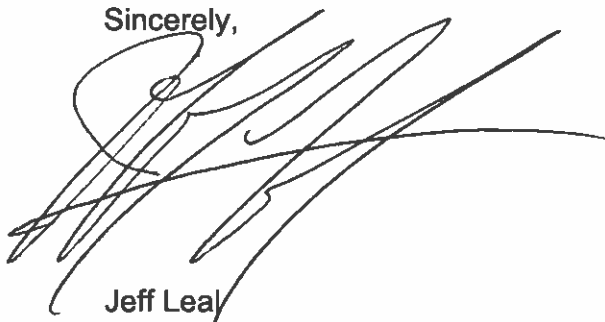
The City of Peterborough acknowledges the Official Plan as a critical tool to help address the shortage of housing in Ontario. It is the City's opinion that the November 2021 City of Peterborough Council-adopted Official Plan, with the recommended Minister's modifications indicated in the **Attachment** and proposed **Planning Statute Law Amendment Act, 2023**, represents an ambitious approach to support the achievement of the City's housing target and provides appropriate consideration to increasing density along existing and planned transit systems. Further the Official Plan, as recommended, will also be consistent with the Provincial Policy Statement, 2020 and conform with A Place to Grow: Growth Plan for the Greater Golden Horseshoe. The City will undertake an amendment to the Official Plan in accordance with the policies and transition provisions of the new Provincial Planning Statement once it takes effect.

The City intends to submit information and supporting documentation outlining the related planning costs incurred, if any, through future correspondence. The City requests, however, additional information to understand how the Province will ensure municipalities will be "kept whole" as a result of the reversal of provincial decisions, including any grace period or relief from the 2023 annual housing target for the Building Faster Fund.

The City welcomes the Province's decision to review past decisions related to land use planning to ensure those decisions support the Province's housing goal in a manner that maintains and reinforces public trust. The City appreciates Ministry staff for their assistance and continued efforts to ensure consultation with municipalities and sound, forward-thinking planning decisions.



Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Jeff Leal".

Jeff Leal
Mayor
City of Peterborough
Phone: 705-742-7777 ext. 1870
Email: JLeal@peterborough.ca

CC: MMAHOfficialPlans@ontario.ca

The Honourable Paul Calandra, Minister of Municipal Affairs and Housing

Jen Liptrot, Regional Director, Eastern Municipal Services Office, Ministry of
Municipal Affairs and Housing

Christa Cowell, Municipal Advisor, Eastern Municipal Services Office, Ministry of
Municipal Affairs and Housing

Members of Peterborough City Council

Jasbir Raina, Chief Administrative Officer, City of Peterborough

Michael Papadacos, Acting Commissioner, Infrastructure and Planning Services,
City of Peterborough

Brad Appleby, Director, Planning, Development and Urban Design, City of
Peterborough

Sarah McDougall Perrin, Government Relations Advisor, City of Peterborough

Dave Smith, MPP, Peterborough-Kawartha

Lindsay Jones, Director of Policy, Association of Municipalities of Ontario (AMO)

Attachment:

City of Peterborough Comments to the Minister's Modifications to the Official Plan



Attachment: City of Peterborough Response to the Minister’s Modifications to the Official Plan

Modification #	Excerpt or Summary of Modifications	City’s Feedback	City’s Recommended Policy Wording
6	<p>Modifies policies for the Coldsprings Special Study Area to eliminate explicit references to the results of the City’s Land Needs Assessment as follows: “The lands within the Coldsprings Special Study Area are anticipated to accommodate growth to 2051. Unless determined otherwise by a city-wide land needs assessment, it is intended that approximately 80 hectares of developable land area will be designated as Prestige Employment and approximately 60 hectares of developable land area will be designated for other community uses.”</p>	<p>Retain and modify the Minister’s modification – The City will establish the appropriate urban structure and delineate land use boundaries through the completion of a Secondary Plan for the Coldsprings Special Study Area. The minor modification is to help clarify that the amount of land within the Coldsprings Special Study Area is to be determined.</p>	<p>The City recommends that Policy 3.3.6.b as modified by the Minister be retained and modified with deletions in bold strikethrough as follows: “The Lands within the Coldsprings Special Study Area are anticipated to accommodate growth to 2051.”</p>

Modification #	Excerpt or Summary of Modifications	City's Feedback	City's Recommended Policy Wording
7	<p>Modifies Policy 3.3.6.c for the Coldsprings Special Study Area as follows:</p> <p>“The completion of a Secondary Plan for the Coldsprings Special Study Area is a priority of the City. The City will complete a Secondary Plan and an Official Plan Amendment to establish the appropriate urban structure, delineate land use boundaries, and provide urban design guidelines and development policies that will support of the establishment of employment land and compatible development.”</p>	<p>Reinstate and modify the adopted Official Plan wording - At present, the City has insufficient employment land opportunities to accommodate both immediate and longer-term needs. The City accepts the Council-adopted Official Plan policy to address the City's more immediate employment land needs; however, the City acknowledges the need to work with neighbouring municipalities to address a long-term and regional solution for employment.</p>	<p>The City recommends that Policy 3.3.6.c. be re-instated to the Council-approved Official Plan wording with additions in <u>bold underline</u> as follows: “The completion of a Secondary Plan for the Coldsprings Special Study Area is a priority of the City. The City will complete a Secondary Plan and an Official Plan Amendment to establish the appropriate urban structure, delineate land use boundaries, and provide urban design guidelines and development policies that will support the establishment of employment land and compatible development <u>to help meet the City's land needs.</u>”</p>
8, 20-27, 39, 41, 43, 44, 49, 50-55	<p>Modifies policies to acknowledge changes to Conservation Authority regulatory requirements with respect to natural heritage, stormwater management and watershed planning.</p>	<p>Retain the Minister's modifications - This policy modification is in accordance with Bill 23, the More Homes Built Faster Act, 2022 which limits the jurisdiction of the Conservation Authority to review or comment on matters beyond a mandatory program or service.</p>	<p>n/a</p>

Modification #	Excerpt or Summary of Modifications	City's Feedback	City's Recommended Policy Wording
12, 13	Removes the maximum height limit of 8 storeys for the Downtown Core Area designation in the Central Area and the related policies that require development proposals with building heights exceeding the height limits in the Official Plan to be considered through an Official Plan Amendment.	<p>Retain the Minister's modifications -</p> <p>The modification removes the maximum height restriction from the Downtown Core Area Designation from the Official Plan; noting however, height limits may still be established in the Zoning By-law or Community Planning Permit System. This modification should streamline development approvals in the Downtown Core Area designation and support the City's Housing Pledge/Targets by eliminating the need for an Official Plan amendment in instances where an Official Plan amendment would be required for a development proposal exceeding 8 storeys. Any development proposal will still need to ensure compatible development and consider the Central Area Urban Design Guidelines (completed through the Streamline Development Approval Fund) adopted by Council in April 2023.</p>	n/a

Modification #	Excerpt or Summary of Modifications	City's Feedback	City's Recommended Policy Wording
15	<p>Adds policy language regarding the evaluation of natural heritage features and development and site alteration within or adjacent to Significant Wildlife Habitat as follows: "Natural Areas are designated on Schedule B: Land Use Plan and Schedule F: Natural Heritage System and Environmental Constraints and are further articulated in Appendix I. In recognition of the wide spectrum of natural heritage features that comprise the Natural Heritage System, a graduated protective approach is applied that reflects the function and significance of the various system components. <u>For some natural heritage features (e.g. unevaluated wetlands), evaluation may be required and policies for the appropriate Level applied accordingly.</u></p> <p><u>The following policies apply to Level A, B and C features:</u></p> <p>i. Level A features are afforded the highest level of protection and the intent is to protect the form and function of these areas in situ. Development and site alteration will not be permitted in Level A Provincially Significant Wetlands, Significant Woodlands, Significant Life Science Areas of Natural or Scientific Interest or Significant Wildlife Habitat in natural features. In accordance with Provincial and Federal requirements, development and site alteration may be permitted in Level A Fish Habitat or Level A Habitat of Endangered or Threatened Species. <u>Development and site alteration may be permitted within or adjacent to Significant Wildlife Habitat, provided it has been demonstrated that there will be no negative impact on the features' form and function.</u></p>	<p>Reinstate and modify the adopted Official Plan wording – The City's recommended policy wording retains the latter portion of the Minister's modification, which is consistent with the 2020 Provincial Policy Statement (and Proposed Provincial Planning Statement) and addresses what appears to be a contradiction regarding development and site alteration within or adjacent to Significant Wildlife Habitat in a manner consistent with Modification #19.</p>	<p>The City recommends that Policy 4.6.2.b be re-instated to the Council-approved wording with additions in <u>bold underline</u> and deletions in bold strikethrough as follows: "i. Level A features are afforded the highest level of protection and the intent is to protect the form and function of these areas in situ. Development and site alteration will not be permitted in Level A Provincially Significant Wetlands, Significant Woodlands, or Significant Life Science Areas of Natural or Scientific Interest or Significant Wildlife Habitat in natural features. In accordance with Provincial and Federal requirements, development and site alteration may be permitted in Level A Fish Habitat or Level A Habitat of Endangered or Threatened Species. <u>Development and site alteration may be permitted within or adjacent to Significant Wildlife Habitat, provided it has been demonstrated that there will be no negative impact on the features' form and function.</u></p>

Modification #	Excerpt or Summary of Modifications	City's Feedback	City's Recommended Policy Wording
16, 18, 19	Adds policy language to permit development and site alteration within or adjacent to Significant Wildlife Habitat where it has been demonstrated that there will be no negative impact on the features' form and function and modifications to Level classification of wildlife habitat.	Retain the Minister's modifications - The modification is consistent with the 2020 Provincial Policy Statement (and Proposed Provincial Planning Statement) where development and site alteration is not permitted on or adjacent to significant wildlife habitat unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.	n/a
33	Modifies cultural heritage policies to acknowledge associated regulations of the Ontario Heritage Act as follows: "In consultation with the Peterborough Architectural Conservation Advisory Committee, property owners and residents, and pursuant to Part V of the Ontario Heritage Act and any associated regulations , the City may, by By-Law, designate any area within the City as a Heritage Conservation District. Properties located within a Heritage Conservation District may also be designated under Part IV of the Ontario Heritage Act."	Retain the Minister's modification - These modifications are consistent with changes to the Ontario Heritage Act through Bill 23, the More Homes Built Faster Act, 2022 .	n/a

Modification #	Excerpt or Summary of Modifications	City's Feedback	City's Recommended Policy Wording
35	<p>Modifies language regarding the City's affordable housing target as follows:</p> <p>"The City's annual affordable housing target is requires that at least 20 per cent of all new residential units across the City be affordable housing, on an annual basis. The target is to be measured city-wide."</p>	<p>Retain the Minister's modification - The modification clarifies this policy as a target, rather than a minimum requirement. It is also noted that this policy language is consistent with the language contained in the Minister's modifications regarding affordable housing targets in other municipalities' official plans (i.e., City of Barrie, if the respective Minister's modifications are retained through the Planning Statute Law Amendment Act, 2023).</p>	n/a
46-48, 58-60	<p>Reduces the scope of site plan control by removing exterior design, including character scale, appearance and design from the list of matters to be addressed through site plan control.</p>	<p>Retain the Minister's modifications- These modifications are consistent with changes to the Planning Act through Bill 23 which reduce the scope of site plan control.</p>	n/a

Modification #	Excerpt or Summary of Modifications	City's Feedback	City's Recommended Policy Wording
56	<p>Adds new transition policy for applications deemed complete prior to the new Official Plan coming into effect as follows: <u>“Applications deemed complete prior to the approval of this Plan by the Ministry of Municipal Affairs and Housing may continue towards final approval under the policy framework in place at the time the Notice of Complete Application was issued. This would include any subsequent implementing approvals.”</u></p>	<p>Retain the Minister's modification - The modification provides greater certainty and flexibility in the transition of current development applications and is consistent with the City's current approach for processing development applications.</p> <p>As stated in the letter, there are no projects currently under construction that are directly reliant on this modification. However, there are several development applications at various stages of the planning approvals process progressing under this transition policy.</p>	n/a