

May 10, 2024

**Electronic Submission only**

**ATTENTION:**

Honourable Paul Calandra  
Minister of Municipal Affairs and Housing  
777 Bay St, 17<sup>th</sup> floor  
Toronto, ON M7A 2J3  
Paul.Calandra@pc.ola.org

**RE: Review of proposed policies for a new provincial planning policy instrument**

Environmental Registry of Ontario Posting [019-8462](#)

**Background:**

The City appreciates the opportunity to respond to the request for feedback on an updated proposed Provincial Planning Statement (PPS) that incorporates feedback received through the previous consultation on the proposed Provincial Planning Statement. We look forward to future discussions and continuing to work together to create a streamlined Province-wide land use planning policy framework that enables municipalities to increase housing supply while adequately planning for infrastructure, protecting resources, and protecting public health and safety.

**Previous Consultation**

On October 25, 2022, the Province initiated a review on approaches for leveraging the housing supportive policies of the Provincial Policy Statement and A Place to Grow, removing barriers, and continuing to protect the environment through a streamlined province-wide land use planning policy framework. City Staff provided a submission to ERO posting [019-6177](#) on December 30, 2022. These comments were circulated to members of Council through the [January 13, 2023 Council information package](#). Many of these comments are still pertinent to this ERO posting and as such, these comments can be found attached as Attachment 1.

On April 6, 2023, the Province posted the proposed Provincial Planning Statement PPS for public consultation through ERO posting [019-6813](#) with comments due by June 5, 2023, the commenting deadline was subsequently extended to August 4, 2023. The proposed PPS sought to combine the Provincial Policy Statement, 2020 (“PPS, 2020”) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (“A Place to Grow”) into a single document. The proposed PPS, 2023, was introduced as part of Bill 97, Helping Homebuyers, Protecting Tenants Act, 2023. Through [ERO 019-6813](#), the Province also released a document outlining the proposed approach to implementation of the proposed Provincial Planning Statement. City Staff provided a submission to ERO posting 019-6813 on August 4, 2023. These comments were considered by [Community Planning, Regulation and Mobility Committee on May 30, 2023](#).

## **Current Consultation**

On April 10, 2024, the Province posted a revised draft of the proposed PPS for public consultation through ERO posting [019-8462](#) (with the French version of the proposed PPS posted two days later on April 13, 2024). The commenting for this posting is 30 days, the deadline for comments is May 12, 2024. The revised PPS is largely similar to the proposed PPS, presented in 2023 for consultation but does include a number of updated and new policies for feedback. The request for comments in the ERO posting is seeking response to six (6) questions related to the updated and new policies proposed to the PPS. The responses to those questions can be found below.

## **General Comments**

There are significant challenges and opportunities in this time of change. Balancing all matters of provincial interest and implementing the local vision in Official Plans is critical to support the creation of a full range of housing, including housing that is affordable in relation to real incomes, the accommodation of employment, improving mobility, taking action on climate change and protecting agriculture, the environment and cultural heritage. Whether it be new elements added to the PPS, 2024, updating dated technical guidance or evolving and modernizing regulations, the City and the Province will need to develop solutions to support building more homes in balance with the protection of human health and safety.

The City offers one example among many of the modern challenges of balancing competing provincial objectives: namely intensification and redevelopment objectives and natural hazards.

## Policies related to growth and development and natural hazards

On November 14, 2023 Mayor Marianne Meed Ward presented a [Motion Memorandum related to a “Request to Province to Amend Provincial Policy Statement, 2020”](#). The request in part states in:

recognizing conflicting guidelines from the Province, be it resolved that Burlington City Council, request the Province (Minister of Municipal Affairs & Housing and Minister of Natural Resources and Forestry) to:

- Work with the City of Burlington and Conservation Halton staff to discuss competing provincial objectives and policies related to growth/development and natural hazards in order to explore policy solutions to address this challenge as outlined in Section 3.1 of the Provincial Policy Statement, 2020 (PPS);
- Update Provincial technical guides that support the PPS, included in the “Technical Guide, River & Stream Systems: Flooding Hazard Limit”; and
- Release updated Section 28 Regulations under the Conservation Authorities Act.

The motion memorandum was precipitated by the completion of two detailed flood hazard mapping studies: one centered on the City’s Burlington GO MTSA and the Downtown area and the other included a series of creeks in the eastern part of the City.

*“The results of these studies indicate that portions of the Downtown Burlington Urban Growth Centre/Burlington GO and Appleby MTSA are located within identified flood hazard (floodplain and spills) and the PPS generally directs development away from hazardous land. At the same time, Burlington has ambitious housing targets to achieve. This has been specified recently by the Minister of Municipal Affairs and Housing for the next three years under the Building Faster Fund...In order for the City of Burlington to achieve the targets specified for the next three years, a range of options need to be explored. This would include advocacy to the Province through updates to the PPS, technical guides that support the PPS and regulations outlined in the Conservation Authorities Act...”*

Staff note and appreciate modifications to the PPS which acknowledge the role of Conservation Authorities. City staff look forward to continuing to work with the Conservation Authority for new solutions to new challenges revealed by sophisticated approaches to modelling flooding hazards.

Staff also note that there are currently no specific proposed modifications to the PPS, 2024 to acknowledge the wide range and nature of hazards to which lands may be subject, specifically spill flood hazards. Staff would like to continue to have an

opportunity to work together with the Ministry of Municipal Affairs and Housing and the Ministry of Natural Resources and Forestry to discuss competing interests and look for solutions for Burlington and other municipalities facing similar challenges. While spill flood hazards are already distinguished from floodplain hazards in that the former is a risk-based assessment, there is no province-wide policy. The Province should be considering options to refinements to the PPS, 2024, technical guides and regulation that distinguish all hazards consistent with new modelling approaches and a detailed understanding of risk inclusive of depth, velocity, length and frequency.

### **Questions for consideration**

Please find below the City's responses to the series of questions proposed within the ERO posting.

#### **1. What are your overall thoughts on the updated proposed Provincial Planning Statement?**

While staff are encouraged to see updated and new policies in the proposed PPS that provide more parameters, additional guidance and strengthening of policies related to the management of growth, there remain a number of areas in which more guidance is required. This will allow municipalities to support the Province in delivering "*appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment*". This relates in particular to methodologies for requirements of the forecasting of growth and the parameters for employment land conversion and urban boundary expansion.

The Province should carefully consider that significant and ongoing changes to the fundamental building blocks of planning could have the unintended consequence of slowing down the creation of new housing units. Each change requires comprehensive processes at the local level to update impacted policies, regulations and by-laws in a sequential manner (e.g. zoning by-laws cannot be updated until revised Official Plan policies are in effect), which may be further extended by lengthy appeal processes.

Should the Province move forward with this new document it may be critical to consider opportunities to develop transition provisions and other means such as protection from appeal to support municipalities in timely implementation. In this regard, the elimination of certain third party appeals as proposed by Bill 185 will be of great assistance.

Staff are encouraged to see that the language from the 2020 PPS has been carried over to the proposed PPS to state that "*Municipal official plans are the most important vehicle for implementation of this Policy Statement and for achieving comprehensive, integrated, and long-term planning. Official plans should coordinate cross-boundary matters to complement the actions of other planning authorities and promote mutually beneficial solutions*". However, City Staff caution as Halton Region will no longer be the

Planning Authority as of July 1, 2024, coordination of cross-boundary matters may become increasingly challenging.

Staff are supportive of the increased guidance and tests related to urban boundary expansion and employment land conversions. However, Staff remain concerned about privately initiated appeals to urban boundary expansion decisions as this could undermine the city's ability to manage its growth in an efficient manner. Increased guidance related to urban boundary expansion and employment land is still necessary given that municipalities have limited guidance related to population and employment growth forecasting methodologies and requirements in the proposed PPS.

**2. What are your thoughts on the ability of updated proposed policies to generate appropriate housing supply, such as: intensification policies, including the redevelopment of underutilized, low density shopping malls and plazas; major transit station area policies; housing options, rural housing and affordable housing policies; and student housing policies?**

Affordable Housing Policies

Staff are supportive of the policy requiring the establishment of targets for local affordable housing based on the reinstated definitions of affordable housing and low and moderate income households in the proposed PPS which will ensure that affordability is directly tied to income. Currently, the [City of Burlington's Housing Strategy](#) identifies Housing Targets (Appendix B of the Housing Strategy) that set out targets for affordable housing in addition to other housing targets.

More direction is required regarding how established municipal affordable housing targets would be enforced and achieved on a site by site basis as well as on a city-wide basis. Staff are concerned about achieving affordable housing targets in the absence of incentivization tools and resources. Staff request that the Province consider exploring additional policy and incentivization tools and resources, including but not limited to funding in order to support the of achievement affordable housing targets. Further, the delivery of affordable housing units may introduce additional implementation costs related to administration requirements that lower-tier municipalities are not structured or currently resourced to implement.

Intensification Policies

The proposed PPS continues to propose the removal of the previous mandatory intensification and density targets under A Place to Grow, while maintaining the minimum density targets for MTSAs in large and fast-growing municipalities of 150 residents and jobs per hectare for those served by commuter or regional inter-city rail (i.e., GO Transit). The changes also only 'encourage', but do not require, large and fast-

growing municipalities to plan for new settlement areas or settlement area expansion lands with a minimum density target of 50 residents and jobs per gross hectare.

Staff continue to support intensification growth directed to our SGAs which currently include the combined Burlington GO Urban Growth Centre/MTSA, the Appleby GO and Aldershot GO MTSA, the Downtown Centre and the Uptown Centre. The Region's new Urban Structure and the City's Urban Structure and Growth Framework (in the appealed Burlington Official Plan, 2020) provide a useful tool to identify SGAs in the context of the proposed Provincial Planning Statement. Additionally, it should be noted that the City's 2020 Official Plan contains policies (not yet in force) that encourage the redevelopment of underutilized, low density shopping malls and plazas. The majority of the 2020 Official Plan and the up-to-date policies it contains remain appealed to the OLT as has been the case since November 2020. Dismissal of certain third party appeals as proposed through Bill 185 is one of the most important measures to support Burlington in meeting its housing targets. The delay created by the appeals of the 2020 Official Plan highlights the importance of restricting appeals, especially when the policies in question are in alignment with Provincial interests. Further, Staff are supportive of the proposed PPS, 2024 policies that remove the requirement for large and fast-growing municipalities to identify and set out density targets for all SGAs.

**3. What are your thoughts on the ability of the updated proposed policies to make land available for development, such as: forecasting, land supply, and planning horizon policies; settlement area boundary expansions policies; and employment area planning policies?**

Forecasting, Land Supply and Planning Horizon Policies

Compared to the PPS, 2020, the proposed PPS, 2024 provides a more flexible horizon for planning for growth by providing a planning horizon with a minimum of 20 years and a maximum of 30 years. Similar to the proposed PPS, 2023, "*planning for infrastructure, public service facilities, strategic growth areas and employment areas may extend beyond this time horizon.*" This would suggest that municipalities are to designate land to accommodate growth over a 20- or 30-year period, with the opportunity to designate additional land beyond the 30-year time horizon for Employment Areas.

The revised policies of the PPS provide additional guidance related to population and employment forecasting, requiring municipalities to base growth forecasts on the Ministry of Finance's (MOF) population projections with transition for municipalities in the GGH to continue to use forecasts issued by the Province through Schedule 3 of A Place to Grow until current forecasts are available to 2051. However, it should be noted that at present, the MOF projections only provide population forecasts and do not include employment forecasts nor housing unit forecasts and that these projections are

not land based and were not intended to be used for the purposes of land use planning like the ones prepared for the Growth Plan<sup>1</sup>.

Additionally, the MOF projections are provided at the Census Division level only, which typically represent the geography of upper-tier municipalities. This means that lower-tier municipalities would not have access to projections that are representative of their municipal boundaries. For example, the MOF provides population forecasts for Halton Region, but not for Burlington, Halton Hills, Milton and Oakville. As a result, local municipalities would not have sufficient forecasting guidance which could result in skewed forecasts for one or all of the lower-tier municipalities. It is recommended that the MOF forecasts be used as a point of reference rather than the definitive source in establishing and validating municipal forecasts in addition to other sources and methodologies.

Further, the proposed PPS does not contain a uniform methodology for the preparation of municipal population and employment forecasts, though the proposed PPS alludes to forthcoming guidance. Staff recommend that the Province consider providing guidance policies or documents that would identify a methodology that all municipalities could follow in preparing their growth analysis work that would provide consistency and certainty across the Province for accommodating growth. A consistent and uniform methodology would also support the defensibility of population and employment growth targets, as well as affordable housing targets, for each municipality and minimize the risk of appeal and expedite land use planning to deliver more homes faster.

Bill 185 brings the removal of the planning responsibilities of certain upper tier municipalities into force as of July 1, 2024. Currently, the upper-tier through the Regional Official Plan allocates the Growth Plan, 2019 population and employment targets to the local municipalities and ensures that there is adequate and phased infrastructure delivery to support the new growth. While staff are supportive of the change to move towards their own forecasting of employment and population growth that reflects the City's planning objectives and vision, it will be necessary that this forecasting be coordinated with Halton Region that is responsible for delivering infrastructure services, especially since the MOF forecasts are not available by lower-tier municipality.

#### Settlement Area Boundary Expansion Policies

In 2023, the proposed Provincial Planning Statement introduced changes to remove the concept of, and the need for a “municipal comprehensive review” and remove the test of

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<sup>1</sup> [Bill 185, Cutting Red Tape to Build More Homes Act, 2024, and Proposed Provincial Planning Statement, 2024 \(escrimemeetings.com\)\(Town of Oakville\)](#)

demonstrated need for the consideration of a settlement boundary expansion, or identification of a new settlement area. Instead, the proposed policy limited the focus of considerations for expansion to sufficient capacity in infrastructure and public service facilities and minimizing impacts on agricultural lands. These proposed policies remain largely unchanged through the revised PPS.

The revised PPS updates its policies with requirements for municipalities to consider additional criteria related to the need for the expansion to accommodate growth, infrastructure capacity, phasing of growth, achievement of housing objectives, consideration of alternative locations to prime agricultural areas, and impacts on agricultural systems.

While the Municipal Comprehensive Review offered at least a somewhat predictable review process/cycle which the agricultural community could anticipate, the removal of this process is likely to compromise the long-term stability of near-urban agricultural lands and further encourage land speculation and increases the price of agricultural lands. Increased land costs exacerbate existing conditions in which many new farm entrants cannot afford access to agricultural lands, which increases the proportion of farmers renting lands and decreases farmers abilities to make long-term investments in high-value agricultural infrastructure and commodities. This lack of investment comes into play during Agricultural Impact Assessments, where lack of farm infrastructure is used as justification for the removal of lands from the prime agricultural area, creating a positive feedback loop. This is further exacerbated by the lack of a quantified minimum baseline requirement for the protection of the Agricultural System, and the lack of cumulative impact assessment requirements. While Staff are not supportive of the policy in general, they are supportive of the inclusion of criteria to justify an expansion and it is still recommended that the Province modify the Agricultural Impact Assessment guidance document to be based on a cumulative impact assessment approach throughout the Agricultural System. In the absence of a comprehensive consideration of interjurisdictional impacts, the integrity of the provincial agricultural system as a whole may be further compromised (example: how is a minimum baseline being maintained?).

#### Employment Area Planning Policies

Currently, the PPS, 2020 and A Place to Grow provide protection for employment areas by limiting their conversion to non-employment uses. Such conversion may only occur during a Municipal Comprehensive Review (MCR) where it is demonstrated that the lands are no longer required for employment purposes. The proposed Provincial Planning Statement, 2023 proposed permitting employment conversions to occur at any time outside of an MCR, subject to a limited demonstration that the land is not required for an employment area over the long term.



The revised policies of the PPS provide minor additional guidance and criteria that would guide employment land conversions. In addition to a test of 'no negative impact' to the overall viability of the employment area, the requirement that sufficient employment land is available to accommodate employment growth (to a 30-year planning horizon and beyond) is also included.

The definition change in the *Planning Act*, coupled with the changes to the PPS related to employment conversions, could result in lands that are currently designated as Employment in the City's Official Plan that contain an institutional or commercial use (including retail, office or recreational uses) being no longer subject to the employment area policies of the PPS. As a result, they would no longer require an employment conversion, as they are uses that are no longer permitted within the Employment Area. Staff encourage the Province to pause on this wholesale definition change at this time, to allow for local municipal approaches to employment conversion in accordance with the proposed Provincial Planning Statement.

Staff remain concerned about the ability to protect employment lands based on the policies and criteria provided in the PPS. This is especially so as municipalities will no longer be able to rely on planning to achieve employment growth forecasts from A Place to Grow, which have not been carried forward into the proposed Provincial Planning Statement. While the MOF has been identified as the base source for forecasting population and employment growth, Staff want to reiterate that **the MOF projections do not include employment forecasts nor housing unit forecasts and that these projections are not land based and were not intended to be used for the purposes of land use planning** like the ones prepared for the Growth Plan<sup>2</sup>. The indication of future guidance on methodology, rather than providing details of what the methodology may entail introduces significant uncertainty as it relates to employment forecasting.

The proposed Provincial Planning Statement continues to protect existing or planned industrial and manufacturing uses and major facilities from the encroachment of sensitive uses. However, coupled with the proposed changes in Bill 97 to the definition of employment area, the focus on mitigation for land use compatibility is limited to industrial and manufacturing uses and other major facilities.

Staff support that the proponent of a sensitive use is no longer required to demonstrate need or evaluate alternative locations for sensitive land uses where avoidance of adverse effects is not possible. Staff acknowledge that the proposed policies do focus on protecting the longer-term viability of industrial and manufacturing uses, as well as

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<sup>2</sup> [Bill 185, Cutting Red Tape to Build More Homes Act, 2024, and Proposed Provincial Planning Statement, 2024 \(escribemeetings.com\) \(Town of Oakville\)](#)

major facilities, while also encouraging industrial, manufacturing, and small-scale manufacturing uses in SGAs (such as MTSAs) and other mixed-use areas where frequent transit service is available outside of employment areas, without adverse effects.

While the City is supportive of the Province's objective to deliver more homes faster, it should be held in balance with, among many other things, maintaining and protecting the employment base. This not only benefits the City's economic viability but also the Provincial economy.

#### **4. What are your thoughts on updated proposed policies to provide infrastructure to support development?**

The City participates in the Region of Halton's Allocation Program and supports the Region of Halton's role in the provision of key infrastructure to support development. Enhanced approaches to working with the Region and with all other infrastructure providers will be critical, particularly in municipalities with an Upper Tier without planning responsibility. Opportunities to ensure that those Upper Tier municipalities without planning authority have sufficient opportunity to be engaged and that all infrastructure providers understand long term growth expectations, timing and need for investment will be critical. This is particularly true in municipalities where redevelopment and intensification rather than more traditional greenfield growth will lead growth. Collaboration in those areas where infrastructure exists may need to be enhanced or expanded will be critical.

#### **5. What are your thoughts on updated proposed policies regarding the conservation and management of resources, such as requirements to use an agricultural systems approach?**

The 2023 proposed PPS introduced a broad range of changes impacting agriculture. The revised PPS has updated some of those policies.

##### Limiting Lot Creation in Prime Agricultural Areas

The revised policy to no longer permit lot creation in prime agricultural areas in response to previous feedback on the 2023 proposed PPS is supported by City staff.

##### Increasing Permission for Housing without Creating New Lots

Staff recommend that the revised policy to propose permitting more housing on farms to support farmers, farm families and farm workers, without creating new lots, through enhanced policy and criteria supporting additional residential units should be coupled with clear and detailed Provincial guidance on what constitutes a farm/farm worker and

what sort of conditions justify the need for additional on-farm housing for farm workers. Requirements should include a valid Farm Business Registration Number, provision of a Farm Business Plan demonstrating the need for additional housing for farm workers, subject lands assessed as agricultural by MPAC, and other supporting materials.

This guidance would also be helpful to municipalities in implementing Provincial permissions for on-farm diversified uses, another instance where it is first necessary to verify that an ongoing commercial agricultural use is occurring on a property before a secondary use is permitted.

Both permissions (Additional Residential Units and On-Farm Diversified uses) are challenging to implement due to limited tools available to municipalities to verify that the subject lands remain in active agricultural use once permission has been granted. While municipalities can utilize Business Licensing By-laws to manage on-farm diversified uses over the long-term, it is unclear what tool could be used to manage Additional Residential Units. Provincial guidance is needed to assist municipalities in managing situations where secondary uses have been permitted on-farm subject to the lands being in active agricultural use, and said agricultural use ceases to exist post-approval.

Separate from the above, the City would like to reiterate its previous comment that permissions for Additional Residential Units within the Greenbelt Area (Greenbelt Plan/Niagara Escarpment Plan/Oak Ridges Moraine Plan) should also be examined. Current permissions are limited and the farming community frequently expresses concerns with how this creates a barrier to long-term agricultural viability. While permanent ARUs may not be desirable outside of settlement areas, it is recommended that the Province explore opportunities to enhance the current framework in collaboration with the agricultural sector, to ensure that temporary housing options are realistic and desirable for both temporary and longer-term farm workers (with particular focus on the latter).

Within rural settlement areas located within the Greenbelt Area, it is still recommended that the Province explore opportunities to enhance permissions for Additional Residential Units, subject to appropriate rural servicing capability etc. For example, the Niagara Escarpment Plan currently limits ARUs within rural settlement areas to being located within an existing dwelling or an addition to it. Given the larger size of many rural lots, are there opportunities to permit ARUs within secondary structures as well?

Additionally, Staff recommend that:

- The Province carry forward Implementation Procedures for the Agricultural System in Ontario's Greater.

- The Province update procedures to remove the requirement for immediate implementation of Provincially mapped agricultural system for municipalities that have already conducted LEAR studies and have approved agricultural system policies/mapping in place. Unrefined Provincial mapping should be informative but not determinative in these municipalities and/or should not be applicable until those municipalities have undertaken the refinement process in accordance with Provincial procedures.

**6. What are your thoughts on any implementation challenges with the updated proposed Provincial Planning Statement? What are your thoughts on the proposed revocations in O.Reg. 311/06 (Transitional Matters - Growth Plans) and O.Reg. 416/05 (Growth Plan Areas)?**

The proposed Provincial Planning Statement includes minor changes to the PPS proposed in 2023 with respect to implementation. The implementation policies continue to direct that official plans and zoning by-laws are required to be kept up to date and where a planning authority must decide on a planning matter before their official plan has been updated to be consistent with this Policy Statement, or before other applicable planning instruments have been updated accordingly, it must still make a decision that is consistent with this Policy Statement.

The background material indicated that a short release of the final document was to be anticipated, after which the Policy Statement will apply to all decisions in respect of the exercise of any authority that affects a planning matter. We are in this release period. Staff recommend that the Province ensure all Provincial guidance documents and methodology are released at the same time as the new Provincial Planning Statement

As noted above, staff are encouraged to see that the municipal official plan continues to be recognized as the key implementation tool of the proposed Provincial Planning Statement within the preamble. Staff suggest that this should be identified within the implementation section policy as well.

While a general statement regarding “provincial guidance” is found within the preamble staff are interested in understanding in greater detail the types of guidance that is expected to be developed and look forward to opportunities to provide feedback on guidance required from a local perspective.

Staff note that the revised PPS is not accompanied by an implementation guide. In 2023, the proposed PPS was accompanied by an implementation guide document. Such a document would be invaluable in providing details related to implementation and transition should the proposed PPS come into effect.

Staff note that generally every change of the policy context will have the effect of slowing down the process of bringing forward new policies. In addition, each municipality must invest significant resources, effort, and costs in order to address consistency with the proposed Provincial Planning Statement. The Province should consider a halt on more significant changes to allow municipalities the opportunity to take stock and implement the changes that have been made to date. Additionally, a pause will afford an opportunity to reflect on changes, their impacts and offer an opportunity to refine approaches and policy supported by monitoring and analysis.

Staff remain concerned with approaches to transition. One issue in particular relates to changes to the employment area definition proposed both in the *Planning Act* and in the PPS, 2024. Employment area planning, just like growth planning has been supported by solid policy, implementation guidance and clear expectations for almost two decades. The significance of this definition change, among the many other changes, alongside the lack of implementation guidance is likely to cause many challenges and issues.

**Taken all together these are significant changes to the way municipalities understand their boundaries, their urban structure and their land uses, particularly as it relates to employment. While this recalibration happens new approaches to transition are absolutely required.**

**At a minimum staff would request that given the significant changes to the framework that if the Province continues to pursue the PPS, 2024 in this context, that a period of transition be clearly implemented. This could be time limited or could simply direct the immediate pursuit of conformity amendments. This approach would be particularly impactful for municipalities, such as Burlington who will soon have the Regional Official Plan deemed to be an official plan of the City. An organized plan to support this transition, and to support the stated objectives of these changes to Provincial approaches to planning, changes to legislation and to policy is required.**

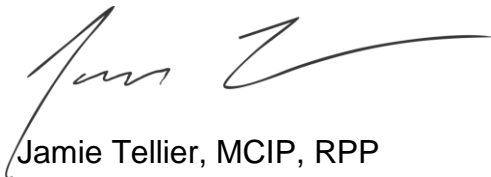
In addition, staff suggest that the Province consider future changes to ensure that through the transition from upper tier municipalities that maximum protections from appeals on issues directly implemented from the proposed PPS are not the cause of future delays of the creation of new housing and meeting the Province's housing objectives.

### **Next Steps**

Please accept this letter as the City of Burlington's submission on ERO posting 019-8462. Given the short period for consultation the attached comments have not been

approved by City Council. This letter and its attachment will be shared with the City's Committee's and Council at the earliest opportunity. Should Council determine any additional comments or refinements to the attached comments are required the Province will be advised at the earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jamie Tellier', with a long horizontal flourish extending to the right.

Jamie Tellier, MCIP, RPP  
Director of Community Planning,  
City of Burlington



**SUBJECT:** City of Burlington comments – Bill 97 and proposed Provincial Planning Statement

**TO:** Community Planning, Regulation & Mobility Cttee.

**FROM:** Community Planning Department

Report Number: PL-39-23

Wards Affected: All

Date to Committee: May 30, 2023

Date to Council: June 13, 2023

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### **Recommendation:**

Direct the Director of Community Planning to provide this report, its attachments and any additional comments based on feedback at the May 30, 2023, CPRM Committee to the Province in advance of Council approval on June 13, 2023.

### **PURPOSE:**

The purpose of this report is to present staff comments related to Bill 97- *Helping Homebuyers, Protecting Tenants Act, 2023* and the Proposed Provincial Planning Statement.

### **Vision to Focus Alignment:**

- Increase economic prosperity and community responsive city growth
- Improve integrated city mobility
- Support sustainable infrastructure and a resilient environment
- Building more citizen engagement, community health and culture
- Deliver customer centric services with a focus on efficiency and technology transformation

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### **Background and Discussion:**

The province introduced Bill 97- *Helping Homebuyers, Protecting Tenants Act, 2023* on April 6, 2023.

The goal of the legislation is to support the implementation of the Province's Housing Supply Action Plan and its commitment to build 1.5 million homes by 2031. The omnibus bill proposes amending a number of existing statutes including: the *Building Code Act*, *City of Toronto Act*, *Development Charges Act*, *Ministry of Municipal Affairs and Housing Act*, *Municipal Act*, the *Planning Act*, and the *Residential Tenancies Act*.

As of the date of writing this report the Bill has had second reading and has been referred to the Standing Committee on Heritage, Infrastructure and Cultural Policy.

Also on April 6, the province released the proposed Provincial Planning Statement, representing a combination of the Provincial Policy Statement, 2020 ("PPS, 2020") and A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 ("A Place to Grow"). As was noted in the Fall of 2022, the province sought feedback and initiated "a review on approaches for leveraging the housing supportive policies of both documents, removing barriers and continuing to protect the environment through a streamlined province-wide land use planning policy framework". Based on the feedback collected the province combined elements of A Place to Grow and the PPS, 2020 into a new land use policy document. The proposed Provincial Planning Statement was released through [ERO posting no. 019-6813](#) for public feedback, with comments due by June 5, 2023. Through ERO 019-6813, the province also released a document outlining the proposed approach to implementation of the proposed Provincial Planning Statement. The document indicates that the province expects to release the final policies for a short period of review, currently targeting fall of 2023.

### **Previous Comments**

A number of staff reports have been prepared since the release of Bill 23 including:

- [CS-12-22: Consultations on Bill 23 More Homes Built Faster, 2022](#). Set out the opportunities for consultation and the guiding principles that would inform staff comments on the wide-ranging consultation opportunities.
- [PL-82-22: City of Burlington submissions as of November 25 on Ontario's Housing Supply Action Plan and Bill 23](#). This report shared twelve individual submissions on a wide range of consultation opportunities.
- [PL-05-23: ROPA 48, 49 and Bill 23 – Approach to achieve conformity and compliance](#). This report was focused on a process update related to the new Official Plan. This report also shared the City's submission ([Appendix A to PL-05-23](#)) on the request for feedback on the province's initiative to consider combining the PPS, 2020 with A Place to Grow.
- [PL-24-23 Burlington Housing Pledge](#). This report focused on the City's response to the identified housing pledge for the City of Burlington.



Consistent among the submissions, and the approach that City staff has taken, is to consider the guiding principles set out in CS-12-22. Whether by highlighting the long-term Strategic Plan, Vision to Focus, Burlington Official Plan, 2020, or the City's Housing Strategy, feedback to the Province continues to reinforce the work and engagement done to date and is a reflection of our local interests and objectives.

The majority of the actions that the Province has taken to date focus on housing-related outcomes. The City, while taking action on creating more housing supply, is also interested in ensuring that new housing will be delivered to:

- support actions related to the City's climate emergency declaration;
- support the objectives of the Integrated Mobility Plan;
- support the creation of housing in the right areas as set out in the Burlington Official Plan, 2020;
- support the creation of housing of a variety of tenures, types and sizes that will welcome more people and families to the city; and
- support the creation of more complete communities with all the infrastructure (water and wastewater, schools, community centres, parks etc.) required to support these new homes and people.

Through the City's Housing Pledge commitment letter the following key principles reinforced that:

- any additional homes built must not be built in the Greenbelt or Niagara Escarpment Plan Areas.
- the City reaffirms our position outlined in the council approved Strategic Plan to maintain the current urban/rural boundary and take every opportunity to advocate for the Greenbelt Plan.
- directing growth within the existing urban boundary set out in ROPA 49 will protect Burlington's critically important agricultural and natural heritage systems while still allowing the City to meet all population and employment growth objectives and targets, including the housing pledge.

### **Bill 97 Comments**

While Bill 97 proposes changes to a number of Acts, staff have focused on the changes to the *Planning Act* and the *Municipal Act*.

## **Planning Act**

### Area of employment definition

Through Bill 97, the Province has introduced changes to the definition of 'area of employment' that would exclude institutional uses and commercial uses. This new definition would exclude retail and office uses that are not associated with a primary industrial use. Bill 97 does include transition provisions that set out two conditions to be satisfied, which would allow one or more parcels of land whose use is otherwise excluded.

### Staff Comments

This change, coupled with the changes to the PPS related to employment conversions, would require a review of the City's currently designated Area of Employment. Office uses and some limited commercial uses have long been permitted within the Area of Employment and within the specific employment land use designations. This is the case as policy development was guided by the definition in the *Planning Act*, the PPS, 2020 and A Place to Grow which all similarly define employment area as:

“Areas designated in an official plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices and associated retail and ancillary facilities.” (PPS, 2020)

This change, coupled with the changes to the PPS related to employment conversions, could result in lands that are currently designated as Employment in the City's Official Plan that contain an institutional or commercial use (including retail, office or recreational uses) which will no longer be subject to the employment area policies of the PPS and would no longer require an employment conversion, as they are uses that are no longer permitted within the Employment Area.

The province has been clear that expectations about accommodating employment forecasts remain to 2051, however, this change in definition has the potential to further erode the protected Employment Area and the employment land supply, and may also impact economic development. Staff encourage the Province to pause on this wholesale definition change at this time, to allow for local municipal approaches to employment conversion in accordance with the proposed Provincial Planning Statement.

### Extension of development application fee refund

Bill 109 set January 1, 2023, as the date after which municipalities would be required to refund fees if *Planning Act* timelines were not met for specific applications for a variety of applications. This Bill extends the date to July 1, 2023.

### **Staff Comments**

While staff are appreciative of the extension and will move ahead with new processes and approaches to supporting Council decisions within the Planning Act timelines. The Town of Oakville comments suggest that more creative solutions exist, such as a “stop the clock” provision to allow staff and proponent to work together to address issues. Staff would be supportive of an approach that supports working together with our development community for better outcomes.

#### **Appeal to the initial passing of an Interim Control By-law**

Bill 97 would allow the right to appeal the initial passing of an Interim Control By-law as well as the existing right to appeal the extension.

### **Staff Comments**

Interim Control By-laws are an important tool for municipalities to employ when detailed study of an issue is required. Staff note that the initial change to not allow the appeal of the initial passing of an Interim Control By-law was applauded and supported by municipalities. This change would be counter to the objectives of an interim control by-law and, instead of expediting the creation of new housing this change could further slow down the creation of new units.

#### **New Ministerial powers**

Bill 97 proposes significant new ministerial powers to take a more direct and involved role in the planning process, including among other powers the ability to determine the non-application of policy statements and other policies in making an order.

### **Staff Comments**

The new powers conferred to the Minister transfer and could potentially undermine local decision making. The province is encouraged to continue its practice of working closely with local Councils who are best able to understand the local impacts and context.

### **Municipal Act**

#### ***New regulations to impose limits and conditions to 99.1***

Under Section 99.1 of the Municipal Act, 2001, municipalities may enact a bylaw that prohibits and regulates the demolition or conversion of multi-unit residential rental properties of six units or more. The government is proposing to enact its regulation-making authority to set minimum requirements which municipalities must impose on landowners if they have a rental replacement by-law. The intent is to increase consistency among municipalities that establish by-laws. The proposed changes build on the recent changes made under Bill 23, *More Homes Built Faster Act, 2022*, which provided the Minister with the authority to prescribe limits to municipal powers related to

the demolition and conversion of residential rental properties of six units or more. The associated posting was released on April 6 through [ORR proposal no. 23-MMAH005](#).

### **Staff Comments**

Burlington's rental stock provides some of the City's most affordable housing, providing homes to some of Burlington's most vulnerable residents. The construction of more homes should always include *rental* homes. Like in many of Ontario's cities, the demand for rental units in Burlington is rising and demand has outpaced supply consistently over the last 15 years. Burlington's vacancy rate has been at or below 2% for the last 15 years. To keep up with the growing demand, Burlington will need to see the creation of over 200 rental units per year. As the demand for rental units continues to grow, it will be important for municipalities to have the tools available to protect existing rental stock and to incentivize the creation of new rental housing.

After extensive study and consultation, the [City of Burlington's Housing Strategy, 2022](#), recommended leveraging the existing policies within the Burlington Official Plans (1997 in effect and 2020 largely under appeal) to implement a rental-replacement by-law that would protect the existing rental stock. The policies of the Official Plan(s) seek to protect rental units and are responsive to local rental market conditions.

Limiting the ability of municipalities to be responsive to local context and rental market conditions to protect existing rental stock will undermine their capacity to provide housing for residents. In Burlington, it will undermine the City's ability to meet growing rental demand, lowering an already exceedingly low vacancy rate, reducing affordability, reducing the capacity to deliver housing options and impacting the quality of life of residents. Please find attached as Appendix A the cover letter and detailed responses to the consultation questions submitted to the ORR by the consultation deadline in advance of Committee and Council consideration.

### **Provincial Planning Statement**

The [proposed Provincial Planning Statement](#) combines elements of the existing policies of A Place to Grow and the PPS, 2020 and introduces new concepts with the objective of speeding up government approval processes and supporting the creation of new housing.

Like the PPS, 2020 this proposed Provincial Planning Statement is considered a policy statement within the Planning Act and the requirement for "consistency" with its policies would apply.

### **General**

The proposed Provincial Planning Statement proposes fundamental changes to the planning policy framework that will have long lasting impacts on land use planning in the

Province. From the seemingly simple name change of “Provincial Policy Statement” to “Provincial Planning Statement”, to the many fundamental policy changes required to bring all planning documents into conformity, there will be significant resource requirements for implementation. These are complex and lengthy exercises, and their implementation will place additional pressure on planning and legal resources.

The proposed Provincial Planning Statement remains incomplete at this time as subsection 4.1 “Natural Heritage” has not been released, as of the date of the preparation of this report. Yet, the proposed document highlights the importance of the concept that the Policy Statement is more than a set of individual policies- that it is to be read in its entirety and that the relevant policies should be applied to each situation. Staff recommend providing the comments within this report but do take the opportunity to note concerns with providing comments in the absence of a complete document.

While the document includes significant changes, staff are encouraged to see that the municipal official plan continues to be recognized as the key implementation tool of the proposed Provincial Planning Statement.

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

Since the Growth Plan was enacted in 2006, the document set out goals, policies and a vision to accommodate growth within the Greater Toronto Hamilton area coupled with specific population and employment growth forecasts to a specific horizon year. These specific growth forecasts, coupled with intensification and density targets to accommodate the forecasted growth has been removed in the proposed PPS. As a result of not carrying forward the minimum intensification targets, the concept of the delineated built boundary and the delineated built-up area has also been removed. The Province has indicated through the proposed approach to implementation document that it is expected that municipalities would continue to use the 2051 forecasts provided by the province at a minimum. The City of Burlington is expected to meet the growth forecasts allocated to the City through ROPA 49. Over time, as it becomes necessary to update the forecasts and extend beyond the 2051 horizon, it is expected that municipalities would move towards their own forecasting of population and employment growth.

Municipalities are now required, when updating official plans, to have enough land designated for at least 25 years and the planning is now permitted to extend beyond this time horizon. This is a change from “up to 25 years” in the Growth Plan and the previous growth management exercises of planning up to (and not beyond) a specific time horizon. Municipalities are still required to provide an appropriate range and mix of housing options and must maintain the ability to accommodate growth for a minimum of 15 years on lands that are designed and available for residential development. The former Provincial Policy Statement directed that this 15-year supply of residential growth

was through residential intensification and redevelopment. This distinction has been removed. However, the definition of designated and available remains in the proposed PPS which indicates that only lands that have commenced the detail planning process (i.e. secondary plans) are considered designated and available.

### **Staff Comments**

Bill 23 has made changes to the Planning Act that upon proclamation will remove the planning responsibilities of the upper tier municipalities. Currently, the upper-tier through the Regional Official Plan allocates the Growth Plan, 2019 population and employment targets to the local municipalities and ensure that there is adequate and phased infrastructure delivery to support the new growth. While staff are supportive of the change to move towards their own forecasting of employment and population growth that reflects the City's planning objectives and vision, it is necessary that this forecasting be coordinated with Halton Region that is responsible for delivering infrastructure services. Currently under the Growth Plan, accommodating the growth and density targets is subject to a Land Needs Assessment methodology laid out by the province. The proposed PPS does not contain a uniform methodology. Staff recommend that the province consider providing guidance policies or documents that would identify a methodology that all municipalities could follow in preparing their growth analysis work that would provide consistency and certainty across the province for accommodating growth. A consistent and uniform methodology would also support the defensibility of population and employment growth targets for each municipality and minimize the risk of appeal and expedite land use planning to deliver more homes faster.

### **Large and fast-growing municipalities**

The proposed PPS introduces the definition of large and fast-growing municipalities by including a Schedule with 29 municipalities, which includes the City of Burlington. These large and fast-growing municipalities were also all assigned housing targets through the municipal housing pledge initiated by the Province. Municipalities are required to identify and focus growth in Strategic Growth Areas (SGAs), including identifying an appropriate minimum density target and type and scale of development for each SGA. In addition, the proposed policies continue to place requirements on municipalities to delineate the boundaries of Major Transit Station Areas (MTSAs) on higher order transit corridors and to plan to meet the minimum density targets for MTSAs. These changes remove the previous mandatory intensification and density targets under A Place to Grow, while maintaining the minimum density targets for MTSAs in large and fast-growing municipalities of 150 residents and jobs per hectare for those served by commuter or regional inter-city rail (i.e., GO Transit). The changes also only 'encourage', but do not require, large and fast-growing municipalities to plan

for new settlement areas or settlement area expansion lands with a minimum density target of 50 residents and jobs per gross hectare.

### **Staff Comments**

Staff continue to support intensification growth directed to our SGAs which currently include the combined Burlington GO Urban Growth Centre/MTSA, the Appleby GO and Aldershot GO MTSAs, the Downtown Centre and the Uptown Centre. The Region's new Urban Structure and the City's Urban Structure and Growth Framework (in the Burlington Official Plan, 2020) provide a useful tool to identify SGAs in the context of the proposed Provincial Planning Statement. In general staff believe that the existing policy documents establish an appropriate local framework to deliver housing and complete communities and significant changes to the Urban Structure and the Growth Framework are not anticipated to maintain consistency with the proposed Provincial Planning Statement.

Staff note that the definition of SGA remains largely the same as within A Place to Grow, with a slight reordering of the areas considered SGAs. A Place to Grow provided specific guidance about establishing and measuring density targets. Staff are concerned that the policies will require the development of density targets for all SGAs, whereas in some cases the establishment of a density target would not be possible or practical. Staff suggest considering a minor modification to policy 2.4.1 a) as follows:

“identifying an ~~appropriate~~ minimum density target for each strategic growth area, where appropriate;”

Should the policy continue as initially proposed, staff are interested in understanding if the Province is considering supplemental guidance related to density targets for SGAs.

### **Settlement Areas and Settlement Area Boundary Expansions**

The changes in the proposed Provincial Planning Statement remove the concept of, and the need for a “municipal comprehensive review” and remove the test of demonstrated need for the consideration of a settlement boundary expansion, or identification of a new settlement area. Instead, the proposed policy limits the focus of considerations for expansion to sufficient capacity in infrastructure and public service facilities and minimizing impacts on agricultural lands.

### **Staff Comments**

While the concept of a municipal comprehensive review of Official Plans has not been carried forward in the proposed Provincial Planning Statement, Section 26 of the Planning Act which requires an official plan review remains unchanged. Staff do not anticipate this section of the Planning Act to change as it ensures that municipal official plans conform to and or are consistent with provincial policies and matters of provincial interest.

Please see comments within the Agricultural section below related to settlement area boundary expansions impacts on agricultural lands.

### **Planning for Complete Communities**

The proposed PPS maintains the notion of complete communities. The concept of complete communities was foundational to the Growth Plan and now the proposed Provincial Planning Statement further establishes schools as a distinct element and directs municipalities to collaborate with school boards to ensure that schools are delivered as part of development. The proposed Provincial Policy Statement also recognizes opportunities for innovative approaches in the design of schools, including opportunities to locate schools within high rise developments.

### **Staff Comments**

Staff are supportive of strengthening the importance of schools as elements of a complete community. This is important for the City of Burlington as the City continues to plan for intensification in our strategic growth areas. The City will continue to work with our school boards to examine options to deliver non-traditional school locations in the MTSAs in a compact built form.

### **Employment Area and Land Use Compatibility**

As noted above, the changes through Bill 97 to the definition of Employment Area are considered in tandem with the proposed changes to the PPS.

Currently, the PPS, 2020 and A Place to Grow provide protection for employment areas by limiting their conversion to non-employment uses. Such conversion may only occur during an MCR where it is demonstrated that the lands are no longer required for employment purposes. The proposed Provincial Planning Statement will permit employment conversions to occur at any time outside of an MCR, subject to a limited demonstration that the land is not required for an employment area over the long term. Such conversions would only be subject to a test of 'no negative impact' to the overall viability of the employment area, rather than reliance on achieving employment growth forecasts from A Place to Grow which have not been carried forward into the proposed Provincial Planning Statement.

The proposed Provincial Planning Statement continues to protect existing or planned industrial and manufacturing uses and major facilities from the encroachment of sensitive uses. However, coupled with the proposed changes in Bill 97 to the definition of employment area, the focus on mitigation for land use compatibility is limited to industrial and manufacturing uses and other major facilities. Further, the proponent of a sensitive use is no longer required to demonstrate need or evaluate alternative locations for sensitive land uses where avoidance of adverse effects is not possible. The proposed policies do focus on protecting the longer-term viability of industrial and



manufacturing uses, as well as major facilities, while also encouraging industrial, manufacturing and small-scale manufacturing uses in SGAs (such as MTSAs) and other mixed-use areas where frequent transit service is available outside of employment areas, without adverse effects.

### **Staff Comments**

The changes to the definition of Employment Area and the related policies, including conversions outside of an MCR (which, as noted above, is a concept no longer carried forward), may result in fragmented planning and may have impacts to the City's new growth framework. These changes may also impact the City's ability to continue to protect employment areas and ensure the economic viability of the City's employment base. While the City is supportive of the Province's objective to deliver more homes faster, it should be held in balance with, among many other things, maintaining and protecting the employment base. This not only benefits the City's economic viability but also the Provincial economy.

### **Agricultural Policies**

The proposed Provincial Planning Statement introduces a broad range of changes impacting agriculture, including:

**Weakened protections for prime agricultural lands in the consideration of settlement area expansions:** Under the PPS 2020, a proposed settlement area expansion into a prime agricultural area requires an evaluation of alternative locations to determine that no reasonable alternatives exist (i) which avoid prime agricultural areas or (ii) on lower priority agricultural lands within the prime agricultural area. Under the proposed Provincial Planning Statement, settlement area expansions would now "give consideration" to avoidance, or where avoidance is not possible, minimizing, and mitigating impacts to the extent feasible on agricultural lands and operations adjacent or close to the settlement area, with no specific emphasis on prime agricultural lands or areas. Impacts would be assessed through an agricultural impact assessment (a new defined term) based on provincial guidance.

Under the PPS 2020, it also must be "demonstrated" that lands proposed for a settlement area boundary expansion did not comprise specialty crop areas. Under the proposed Provincial Planning Statement, planning authorities "should consider" whether the applicable lands comprise specialty crop areas. The new "should consider" threshold also applies in relation to agricultural impact assessment and minimum distance separation formulae requirements.

**Elimination of the requirement to use the provincially mapped agricultural land base:** Under A Place to Grow, municipalities are required to implement the provincially mapped agricultural land base (which includes prime agricultural areas and rural lands).

Under the proposed Provincial Planning Statement, the provincial agricultural land base mapping is considered optional, though municipalities must still designate prime agricultural areas and ensure their long-term protection for agricultural use. The revised definition of “prime agricultural area” notes that such lands may be identified by the province, or by a planning authority based on provincial guidance.

**Permitting additional dwelling units and new residential lots in prime agricultural areas:** Under the PPS 2020, permitted uses within prime agricultural areas (with some limited exceptions, such as mineral aggregate extraction) are agricultural uses, agriculture-related uses and on-farm diversified uses. Under the proposed Provincial Planning Statement, new policies clarify that a principal dwelling associated with an agricultural operation may be permitted as an agricultural use in a prime agricultural area (subject to criteria) and that, subordinate to the principal dwelling, up to two additional residential units may be permitted (also subject to criteria).

Under the PPS 2020, lot creation in prime agricultural areas is discouraged and may only be permitted for agricultural uses, agriculture-related uses, surplus farm dwelling severances and infrastructure the creation of new residential lots is not permitted, except in accordance with these uses. Under the proposed Provincial Planning Statement, a new policy permits the creation of up to three new residential lots from a parcel of land that existed as of January 1, 2023, within a prime agricultural area.

**Elimination of alternative evaluations for mineral aggregate extraction rehabilitation:** Under the PPS 2020, one of the tests regarding the rehabilitation of prime agricultural lands is whether alternative lands have been considered by the proponent. Under the proposed Provincial Planning Statement, this requirement has been eliminated and the retained policies simply speak to the feasibility of restoration based on the planned depth of extraction and maximizing agricultural rehabilitation in remaining areas.

**Permitting land-extensive energy facilities as on-farm diversified uses:** Under the PPS, 2020, “ground-mounted solar facilities” are permitted within prime agricultural areas as an on-farm diversified use. Under the proposed Provincial Planning Statement, this permission has been broadened to “land-extensive energy facilities, such as ground-mounted solar or battery storage”.

### **Staff Comments**

Many of the proposed changes may not have direct impacts within Burlington, as the entirety of the City’s current rural area is located within the Greenbelt Plan Area and the Niagara Escarpment Plan Area, and the province has not indicated that changes to these plans are forthcoming. The Greenbelt Plan and the Niagara Escarpment Plan are to be read in conjunction with the PPS but the policies of these plans take precedence over the policies of the PPS to the extent of any conflict, except where the relevant

legislation provides otherwise. Where the policies of these plans address the same, similar, related or overlapping matters as policies in the PPS, applying the more specific policies of these plans satisfies the requirements of the more general policies in the PPS.

On that basis, many of the new rural and agricultural permissions of the proposed Provincial Planning Statement (i.e. additional residential units and lot creation) would not be applicable within the Greenbelt/Niagara Escarpment Plan areas, unless the policies of those plans were to be amended. Further, the revised boundary expansion criteria would be of limited effect as the majority of Burlington's urban boundary is informed by the 'permanent' protections of the Greenbelt. However, staff note that recent changes to the boundaries of the Greenbelt Area to facilitate settlement area expansions in several municipalities have introduced a level of uncertainty regarding the 'permanent' nature of the protections of the Greenbelt.

While the proposed Provincial Planning Statement may impact certain aspects of the future review of the North Aldershot Area, there are currently no prime agricultural areas identified within North Aldershot (though agricultural uses do exist in the area). Similarly, no specialty crop areas have been identified within the city, meaning changes to specialty crop policies in the PPS will not have direct impacts in Burlington.

With respect to the proposed change to optional implementation of the provincially mapped agricultural land base, staff note that Halton Region is one of four Ontario municipalities which conducted its own Land Evaluation and Area Review to identify a prime agricultural area in advance of the more recent requirements in A Place to Grow. The provincial mapping for Halton was largely informed by the existing prime agricultural area mapped by the Region- which has already been incorporated in the Burlington Official Plan, 2020. Under the proposed Provincial Planning Statement, the provincial mapping would simply function as an additional input to reviewing and refining the agricultural land base already mapped by Halton Region for the City of Burlington.

Staff are supportive of the introduction of new permissions for additional residential units as it relates to providing appropriate housing for on-farm employees. Staff note that there may also be additional opportunities to support the provision of appropriate housing options for on-farm employees within the Greenbelt Area through the future review of other provincial plans- for example, Niagara Escarpment Plan policies could be reviewed to determine whether there is an opportunity to enhance permissions for additional residential units with rural settlement areas. However, aside from housing for on-farm employees, new housing should be focused within urban and rural settlement areas, or in rural areas outside of agricultural areas, supported by appropriate edge planning. Additional residential units proposed for non-farm uses (i.e. not for the purpose of housing on-farm employees) should also be subject to an agricultural impact assessment.

In relation to the definition of “agricultural uses,” specific and implementable criteria should be established in provincial guidance documents which outline how a municipality is to confirm “when the size and nature of the operation requires additional employment” in order for on-farm housing to be considered an agricultural use. Policies should also limit severance permissions for newly constructed dwellings for on-farm housing for a set period of time.

Staff are not supportive of the introduction of new permissions for the creation of residential lots in prime agricultural areas and believe that the existing policies should be maintained in this regard. If the proposed residential lot creation policies are retained in the Provincial Planning Statement, policies should be revised to account for previously severed lots and to limit further severances. For proposed subsection 4.3.3.(1) a) 1), specific and implementable criteria should be established in provincial guidance documents which outline how a municipality is to confirm that agriculture is the principal use of an existing parcel. All severances should also be subject to an agricultural impact assessment.

As the introduction of non-agricultural uses to the rural area is likely to cause an increase in farm nuisance complaints, the Farming and Food Production Protection Act, as well as the resourcing of the Normal Farm Practices Protection Board, should be reviewed to ensure appropriate protection for farmers and the timely resolution of complaints. Consideration should also be given to potential impacts to the mineral aggregate sector, in terms of how an increase in residential uses within rural areas may impact the feasibility of ongoing and/or future extraction activities due to heightened concerns over land use compatibility and public health and safety.

Regarding the removal of the requirement to consider alternative lands to prime agricultural areas for settlement boundary expansions and post-mineral aggregate extraction rehabilitation requirements, though it signals a lesser focus on agricultural protection, staff question the effectiveness of the existing policies and do not anticipate significantly different outcomes in the absence of this requirement. The existing policies lack clear implementation guidance and therefore allow highly subjective interpretation. A more effective approach would be the application of a cumulative lens to agricultural impact assessment, supported by robust policies and resources for proactive agricultural restoration and enhancement (beyond aggregate extraction similar to the manner in which natural heritage is commonly approached). Without any minimum threshold to maintain the integrity of the system as a whole, and in the absence of targeted restoration and enhancement efforts, the trend of drastic decline in agricultural lands observed in Ontario is likely to continue under either policy framework.

Staff do not have concerns with the increased permissions for land-extensive energy facilities, as the detailed policies and guidance for on-farm diversified uses generally provide sufficient limits to the scale and intensity of such uses.

In addition, staff have reviewed the Ontario Federation of Agriculture submission to the ERO regarding the proposed Provincial Planning Statement and Bill 97, attached as Appendix B to this report, and support the following elements of the submission:

- the request for stronger protections for agricultural lands, including additional classes of soil particularly in agricultural areas where class 1-4 soils are not present;
- the request to move forward with increased permissions for on-farm Additional Residential Units without the introduction of new permissions for residential lot creation in prime agricultural areas; and
- the request to limit the use of MZOs to non-agricultural areas (i.e. primarily within the urban area).

Staff concur with the Ontario Federation of Agriculture's opinion that the best use of Ontario's highly limited and finite supply of farmland is agricultural production, which supports Ontario's economy and enhances food security. Farmland also plays a significantly undervalued role in hosting substantial components of the natural heritage and water resource systems, which provide valuable ecological goods and services.

Further reduction and fragmentation will compromise the economic viability and ecological integrity of the remaining agricultural land base as whole, which runs counter to the provincial objective of protecting these lands for long-term agricultural use. Although direct impacts may be more limited in rural Burlington, given the interconnected nature of the agricultural system, individual municipalities are not likely to be insulated from the broader effects of continued decline.

## **Implementation**

The proposed Provincial Planning Statement includes significant changes with respect to implementation. The preamble confirms that municipal official plans continue to be identified as the key implementation tool for the proposed Provincial Planning Statement. The implementation policies direct that official plans and zoning by-laws are required to be kept up to date. Further, the proposed policies note:

*Where a planning authority must decide on a planning matter before their official plan has been updated to be consistent with this Policy Statement, or before other applicable planning instruments have been updated accordingly, it must still make a decision that is consistent with this Policy Statement.*

The background material indicates that while a short release of the final document is anticipated in fall 2023. The effective date has yet to be established, after which the Policy Statement will apply to all decisions in respect of the exercise of any authority that affects a planning matter.

### **Staff Comments**

As noted above, staff are encouraged to see that the municipal official plan continues to be recognized as the key implementation tool of the proposed Provincial Planning Statement within the preamble. Staff suggest that this should be identified within the implementation section policy as well.

While a general statement regarding “provincial guidance” is found within the preamble staff are interested in understanding in greater detail the types of guidance that is expected to be developed and look forward to opportunities to provide feedback on guidance required from a local perspective.

Staff suggest that the Province consider future changes to ensure that through the transition from upper tier municipalities that maximum protections from appeals on issues directly implemented from the proposed PPS are not the cause of future delays of the creation of new housing and meeting the province’s housing objectives.

Staff note that generally every change of the policy context will have the effect of slowing down the process of bringing forward new policies. In addition, each municipality must invest significant resources, effort and costs in order to address consistency with the proposed Provincial Planning Statement. The province should consider a halt on more significant changes to allow municipalities the opportunity to take stock and implement the changes that have been made to date. Additionally, a pause will afford an opportunity to reflect on changes, their impacts and offer an opportunity to refine approaches and policy supported by monitoring and analysis.

### **Barriers to accelerating development and construction**

#### **Ontario Land Tribunal**

The consolidation of planning documents is a welcome opportunity to develop a more streamlined policy framework. However, staff note that the benefits of any efficiencies gained will be limited if the OLT process is not substantially reformed to reduce the strain on municipal resources.

To reduce this strain, *Planning Act* provisions limiting the right to appeal upper-tier official plans should be extended to lower-tier municipalities, or *Planning Act* provisions limiting appeal rights to certain policies (e.g. additional residential units and aspects of Major Transit Station Areas) should be expanded to incorporate additional policy areas. In the case of a comprehensive official plan review or a new official plan, the province should re-introduce rigour around what constitutes an acceptable appeal and build in mechanisms to ensure that valuable tribunal time is not spent on arguing the nature or validity of appeals. This is particularly relevant where the applicable upper-tier municipality and/or province has established policies that are not subject to interpretation/discretion by local municipalities or applicants. The province should consider re-introducing requirements for appellants to specifically outline Official Plan

policies subject to appeal and how they do not conform/align with specific provincial policies.

Broad appeals to Official Plan policies should be evaluated by the OLT in a timely manner and appeals to policies that have already been deemed to be in conformity/alignment with the provincial policy framework (through the post Bill 23 provincial approval process) should be deemed invalid and dismissed by the Tribunal without the need to go to a hearing; this evaluation should also determine whether an appeal is appropriately filed as “broad” or “site-specific” and appellants should have to provide strong rationale for filing an appeal on a broad basis.

A standardized format/template for appeals should be implemented by the OLT, to avoid vague and expansive appeals which unnecessarily slow down the process and inadvertently block progress on implementing new permissions for housing. In order to achieve that greater specificity, it would be preferable to introduce a longer appeal period to allow for more precisely structured appeals in a consistent format. Shifting this work to the outset of the process may reduce the likelihood of having substantial portions of an Official Plan frozen for years at a time while the details of issues are determined.

Further, for each of the 29 large and fast-growing municipalities identified by the Province, a transition process should be developed to prioritize the expedient review, modification and approval of any municipally initiated Official Plan Amendments or new Official Plans currently subject to appeal. This could be accomplished by:

- revoking third party appeals and converting all remaining broad appeals to site-specific matters; or
- pausing existing hearings to allow municipalities to undertake a comprehensive process for bringing their Official Plans into conformity with the revised provincial policy framework, including the transition of upper-tier planning responsibilities, where applicable, to be approved by the Minister of Municipal Affairs and Housing with any remaining appeals being heard on a site-specific basis only; or
- administratively prioritizing OLT resources to fast-track ongoing hearing processes (though this would not address potential resourcing limitations within the affected municipalities).

Without such intervention, municipalities such as the City of Burlington will find themselves in a policy quagmire that far exceeds the current complexity caught between an ‘old’ Official Plan, a ‘new’ Official Plan, an inherited upper-tier Official Plan and a drastically different provincial policy framework which is not reflected in any of the three documents. Further, the comprehensive review and update of the City’s Zoning By-law will largely be held up until the majority of appeals to the new Official Plan are resolved *and* the in-effect portions of the plan have been amended to align/conform with the new provincial policy framework all further complicated by the inheritance of the upper-tier Official Plan. While these critically important planning documents remain under appeal or out of date, many property owners will need to apply to amend the Official Plan and Zoning By-law introducing added costs and time delays, as well as the

prospect of additional appeals- to the detriment of City and Provincial housing objectives.

**Strategy/process/risk**

Staff have worked expeditiously to deliver this report. Given the quick turnaround formal comments on Bill 97 were not provided in advance of the commenting deadline.

**Options Considered**

Not applicable

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**Financial Matters:**

In consideration of the guiding principle “growth pays for growth,” it is critical to avoid or minimize the burden of growth costs falling on existing taxpayers. Bill 23, financial impact analysis (F-10-23), summarized Development Charges and Community Benefits Charges revenue impact at approximately \$36.6 million, and a further estimated impact of \$420 million with respect to parkland dedication. Without this funding, it is inevitable that growth related projects will be delayed, and it will become necessary to use tax supported funds to ensure growth-related infrastructure is provided for complete communities, contrary to the above principle.

Finance staff are updating the Development Charges Background Study and Community Benefits Strategy to align with the changes resulting from Bill 23 legislation and update the city’s growth-related capital needs, prior to the DC by-law expiration of June 1, 2024.

**Total Financial Impact**

Not applicable

**Source of Funding**

Not applicable

**Other Resource Impacts**

While not related exclusively to Bill 97 or the proposed Provincial Planning Statement, the long-term impacts of the variety of changes proposed related to Bill 109, Bill 23 and other potential planning and municipal governance changes continue to drive the need for significant analysis, reporting and effort from multiple service areas across various City Departments.

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### **Climate Implications:**

On April 23, 2019, Burlington City Council unanimously passed a motion to declare a climate emergency. Broadly, the City has set out frameworks to provide for innovative solutions and opportunities to address local housing issues while making better use of existing infrastructure and services. This will be done through the provision of additional residential units and directing new housing options in locations designated for intensification, such as Major Transit Station Areas.

In accordance with the existing Growth Plan for the Greater Golden Horseshoe, planning in Burlington must have as a guiding principle the need to “integrate climate change considerations into planning and managing growth such as planning for more resilient communities and infrastructure – that are adaptive to the impacts of a changing climate and moving towards environmentally sustainable communities by incorporating approaches to reduce greenhouse gas emissions.” Staff note that the proposed Provincial Planning Statement does not carry forward climate change considerations in the same way or to the same extent.

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### **Engagement Matters:**

Given the very tight timelines for the proposals reflected in the attachments, engagement was limited to City staff departments.

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### **Conclusion:**

Fundamental changes to the basic framework of the Provincial policy-led system alongside changes already discussed through other legislative and regulatory consultations are all intended to support Ontario’s Housing Supply Action Plan and the provincial commitment to build 1.5 million homes by 2031. There are significant challenges and opportunities in this time of change. Balancing all matters of provincial interest and implementing the local vision in Official Plans is critical to support the creation of a full range of housing, including housing that is affordable in relation to real incomes, the accommodation of employment, improving mobility, taking action on climate change and protecting agriculture, the environment and cultural heritage.

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Respectfully submitted,

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Alison Enns, MCIP, RPP, Manager of Policy and Community

Karyn Poad, MCIP, RPP, Senior Planner

Kelly Cook, Senior Planner

**Appendices:**

- A. City of Burlington staff comments on ORR Proposal Number 23-MMAH005
- B. Ontario Federation of Agriculture Submission Re: Bill 97 and Proposed Provincial Planning Statement

**Notifications:**

Curt Benson, Region of Halton

**Report Approval:**

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.