
REPORT TITLE: **Bill 97, Helping Homebuyers, Protecting Tenants Act, 2023, and Proposed Provincial Planning Statement**

FROM: Kealy Dedman, Commissioner of Public Works

RECOMMENDATION

1. That the comments and recommendations to the Province of Ontario as outlined in and appended to the report of the Commissioner of Public Works, listed on the June 8, 2023 Regional Council agenda titled “*Bill 97, Helping Homebuyers, Protecting Tenants Act, 2023, and Proposed Provincial Planning Statement*”, be endorsed; and
2. That staff be directed to provide further comment to the Province on Bill 97 and the proposed changes to the *Planning Act*, to request the deadline for refunding of planning fees be extended from July 1, 2023 to January 1, 2025, to align with the date proposed for Peel dissolution introduced by Bill 112, the *Hazel McCallion Act (Peel Dissolution)*; and
3. That the subject report be forwarded to the Ministry of Municipal Affairs and Housing, Peel Members of Provincial Parliament, the Town of Caledon, the City of Brampton, and the City of Mississauga.

REPORT HIGHLIGHTS

- On April 6, 2023, the Province introduced Bill 97, the *Helping Homebuyers, Protecting Tenants Act, 2023* (Bill 97). This represents the next phase in implementation of the Province’s Housing Supply Action Plan.
- Bill 97 proposes changes to the *Planning Act* and a more streamlined housing-focused Provincial Planning Statement, which will revoke and replace the Provincial Policy Statement, 2020 and A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019.
- Bill 97 represents fundamental changes to the land use planning framework in Ontario that are concerning as they expand Minister’s Zoning Order authority, reduce criteria for settlement area boundary expansion, redefine planning for areas of employment, and remove requirements and references to affordable housing definitions and targets, growth forecasts, minimum intensification and density targets, climate change, and active transportation.
- Changes introduced in the proposed Provincial Planning Statement will impact the ability of municipalities to efficiently plan for growth and align servicing demands with infrastructure planning.
- Recent legislative changes introduced by Bill 23, which remove Regional planning responsibilities and Bill 112, the *Hazel McCallion Act (Peel Dissolution)*, have created increased difficulty in retaining and recruiting staff at upper tier municipalities, and particularly in Peel, which will further make adherence to Bill 108 legislative timelines more difficult.

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- Through the recommendations of this report, staff are seeking direction to provide additional comments to the Province to request the deadline for refunding fees be extended from July 1, 2023 to January 1, 2025, to align with the date proposed for Peel dissolution introduced by Bill 112.
 - The proposed Provincial Planning Statement is expected to come into effect in fall 2023. Transition planning is needed as the timing of changes complicate Peel's review of local municipal official plan updates and the approval of certain types of development applications and therefore it is recommended that the Province extend the local municipal official plan review timelines for Peel until after the full implementation of Bill 23, the proposed PPS, and outcomes of Bill 112 are addressed.
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DISCUSSION

1. Background

On April 6, 2023, the Province introduced Bill 97, the *Helping Homebuyers, Protecting Tenants Act, 2023*, and released the government's Helping Homebuyers, Protecting Tenants Plan. The proposed Plan is the next phase of Ontario's Housing Supply Action Plan to support the goal of building 1.5 million new homes by 2031.

As part of the Plan, the Province is proposing to integrate elements of the Provincial Policy Statement, 2020 and A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (the Growth Plan) into a streamlined housing-focused Provincial Planning Statement (PPS). Both the Provincial Policy Statement and Growth Plan are to be revoked when the proposed PPS is released and comes into effect, which is currently targeted to be in fall 2023. Any decision on a planning matter made on or after the effective date of the proposed PPS will be subject to the new policy framework, and associated enacted transition regulations.

The Province is seeking feedback on the proposed PPS and the government's approach to implementing new policies and legislation. At the time of writing of this report, natural heritage policies and amendments to the Greenbelt Plan remain under consideration by the Province and will be subject to further consultation under separate Environment Registry of Ontario (ERO) postings.

Provincial deadlines for comments on changes to the *Planning Act* in Bill 97 was May 6, 2023, and on the proposed PPS and implementation approach is August 4, 2023. Highlights of proposed planning-related changes in Bill 97 and key implications are provided below and in Appendix I. Peel Region responses are attached in Appendices II and III for endorsement by Regional Council.

Staff from Housing Services have submitted comments to the Province on the Bill 97 postings related to tenant protection, residential rental demolition, and conversion control provisions.

On May 18, 2023, the Province introduced Bill 112, the *Hazel McCallion Act (Peel Dissolution), 2023* that, if passed, will dissolve the Region of Peel and make the Cities of Brampton and Mississauga and the Town of Caledon single-tier municipalities, effective January 1, 2025. The proposed legislation provides for the establishment of a Transition Board to make recommendations on implementing the restructuring. Details of the transition including matters as they relate to Regional planning roles and responsibilities are not known at this time and are

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to be addressed in future reporting to Regional Council. As Bill 112 does not make changes to Bill 97 or the *More Homes, Built Faster Act, 2022* (Bill 23), which provides for the removal of the Region's planning responsibilities upon proclamation, comments addressing the more immediate transition needs as they relate to planning responsibilities and the timing of the legislative and policy framework contained in Bill 97 and proposed PPS are provided for Council's consideration. Additional assessment to support the transition under Bill 112 will be provided as further details become known.

2. COMMENTS ON THE BILL 97 CHANGES TO THE *PLANNING ACT, MUNICIPAL ACT, AND MUNICIPAL AFFAIRS AND HOUSING ACT*

Bill 97 proposes amendments to the *Planning Act, Municipal Act* and *Municipal Affairs and Housing Act* to support the implementation of the Province's housing plans. Key amendments, if passed, would:

- delay the requirement for municipalities to refund zoning by-law and site plan application fees to apply to applications submitted on or after July 1, 2023.
- provide Ministerial authority to include provisions in a Minister's Zoning Order (MZO) that provincial policy statements, provincial plans and municipal official plans do not apply to further licenses, permits, or approvals needed to establish uses permitted under an MZO.
- remove institutional, retail and office uses from the definition of 'Area of Employment'.

Recent legislative changes introduced by Bill 23, which remove Regional planning responsibilities and Bill 112, the *Hazel McCallion Act (Peel Dissolution)* have caused increased difficulty in retaining and recruiting staff at upper-tier municipalities and particularly in Peel. Meeting legislative timelines as required by Bill 108 will continue to be difficult. Although Peel Region's comments submitted in May 2023 to the Province on Bill 97 requested an extension to the deadline for municipalities to begin refunding zoning by-law and site plan application fees from July 1, 2023 to December 31, 2023, this happened before Bill 112 was introduced. Through the recommendations of this report, staff are seeking direction to provide additional comments to the Province to request the deadline for refunding fees be extended from July 1, 2023 to January 1, 2025, to align with the date proposed for Peel dissolution introduced by Bill 112.

Peel Region supports the provincial government's Housing Supply Action Plan but has concerns regarding aspects of the legislative changes and continues to advocate that the Minister work with municipalities to develop a transparent process to be followed prior to issuing an MZO, including engagement protocols, advance notice for municipalities and the public, confirmation of servicing, and conditions for their use. The proposed additional Ministerial authority states that official plans do not need to apply for further approvals needed to implement MZOs. This is concerning because it removes the official plan policy basis for requiring technical studies, planning, design, and servicing considerations in the implementation of further approvals if these matters are not addressed prior to MZOs being issued.

The proposed amendments to the definition of "Area of Employment" excludes institutional and commercial uses (such as office and retail) with the exception of commercial uses associated with the primary manufacturing, research and development, and warehouse uses. This could put office and other uses within established employment areas at risk of being replaced by residential development. Proposed transitional provisions allow municipalities to amend their official plans to maintain office uses within existing employment areas, however, strong policies

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need to be in place to protect established employment clusters. While the creation of more homes is a critical objective, it should be balanced with other objectives including continuing to protect and provide designated lands for office development and high-quality jobs for the future residents of Peel.

Key Recommendations:

- That additional correspondence be sent to the Province requesting that the in-effect date for the refund of planning application fees where no decision is made within statutory timelines be extended from July 1, 2023, to January 1, 2025.
- That Bill 97 include provisions to require that MZOs “shall have regard to” municipal official plans, rather than providing entire exemptions from further approvals from having to conform to a municipal official plan.
- That the Minister work with municipalities to develop a transparent process to be followed prior to issuing MZOs, including engagement protocols, communication tools, advance notice for municipalities and the public, confirmation of servicing, and conditions for their use.
- That the Minister maintain the inclusion of office uses within the definition of ‘Area of Employment’ and include provisions that do not permit appeals of official plan amendments that allow excluded uses in designated employment areas.

3. COMMENTS ON THE PROPOSED PROVINCIAL PLANNING STATEMENT

The Provincial Policy Statement and Growth Plan provide comprehensive direction for municipalities on land use planning matters, and a balanced policy framework addressing matters related to growth, development, housing, infrastructure and the protection and management of resources, public health, and safety. The Growth Plan provides a framework for where and how growth should be accommodated and promotes a variety of housing options while supporting the achievement of complete communities.

While Peel Region staff support the Province’s efforts to streamline the planning process to achieve the goals of the *More Homes, Built Faster Act*, the proposed PPS changes represent fundamental changes to the policy-led land use planning framework in Ontario, which is concerning. The removal of Growth Plan policies that specify minimum intensification and density targets and require a more rigorous demonstration of the need for settlement expansion and employment area conversions will result in the inefficient use of land, infrastructure, and resources. Proposed changes remove policy requirements for phasing development and infrastructure, promoting intensification and compact urban form, consideration of the ability to finance infrastructure sustainably, and settlement boundary expansion based on a standard land needs assessment methodology. Although the intention of the proposed PPS is to develop more homes quickly, proposed changes do not recognize the balance of many important considerations involved in developing complete and healthy communities.

Below are key recommendations from Peel Region staff on the proposed PPS by focus area.

Growth Management:

- To continue to build complete communities that efficiently use existing land, infrastructure and reduce the need to convert agricultural land for development, there should be policy direction regarding specific growth forecasts and requirements that large and fast-growing

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municipalities set minimum intensification and density targets that are locally appropriate and meet or exceed provincial guidelines.

- To ensure clarity and a consistent approach, provincial direction should continue to set and provide minimum standards for setting intensification and density targets.

Planning for Infrastructure:

- To coordinate growth with infrastructure, maintain policies that require planning for new or expanded infrastructure to occur in an integrated, coordinated, efficient and fiscally responsible manner that is supported by relevant studies, including assessment of climate change impacts and full life cycle costs.

Municipal Comprehensive Reviews and Settlement Area Expansion:

- To ensure land continues to be used efficiently and minimize the need to convert agricultural land for future development, settlement boundary expansion policies in the Growth Plan should be brought forward in the proposed PPS for large and fast-growing municipalities, including requirements for considering alternative locations, phasing, and promoting intensification and compact urban form.
- Expansions should be based on a land needs assessment with consideration for viable infrastructure servicing to accommodate growth. A corresponding amendment should be made to ensure that current policies that limit settlement expansion in the Greenbelt are included in the Greenbelt Plan. A similar review of the Oak Ridges Moraine Conservation and Niagara Escarpment Plan should also be undertaken to ensure that there are no gaps in policy direction.

Definition of Area of Employment:

- Ensure provincial policy safeguards against potential land use conflicts triggered by residential redevelopment of excluded areas within currently established employment areas.
- Should the definition be approved and institutional, retail, and office uses be excluded, Policy 2.2.5.14 of the Growth Plan should be included in the proposed PPS to require development criteria for any redevelopment outside of employment areas to ensure that a similar number of jobs can remain accommodated on site.

Employment Land Conversion and Employment Area Protection:

- If employment conversions are to be considered at any time (rather than as part of a Municipal Comprehensive Review), a new provincial mechanism should be established to ensure that employment conversion requests are addressed in a coordinated, comprehensive, and consistent manner that considers the Regional Employment Area as whole.
- Retain language from the Growth Plan to include the defined term of “adverse effect” to ensure the protection of existing and planned employment areas from encroachment from non-employment uses.

Housing:

- Policy direction regarding housing mix should incorporate income-based affordability to adequately address the needs of low- and moderate-income households, such as by retaining the income-based definition that currently exists in the Provincial Policy Statement.
- Include definitions for affordable ownership and rental housing and policies to enable municipalities to establish and implement targets to support efforts to secure affordable housing.

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Environment and Resources (Water, Agricultural, Aggregates):

- The proposed policy framework for large and fast-growing municipalities should continue to require implementation of a science-based approach for agricultural, natural heritage and water resource systems with clear protection standards.
- The importance of watershed planning and climate change should be recognized by including stronger policy direction.
- Policies permitting three rural residential lot severances in the prime agricultural area should be removed to continue to maintain the viability of agricultural areas and minimize land use conflicts.

Climate Change:

- Climate change policies should be more fully integrated into the policy framework to require climate change considerations more directly in growth management and infrastructure planning.
- Policies should be strengthened to specify requirements for risk and vulnerability assessments and facilitate renewable and alternative energy systems including district energy.

4. COMMENTS ON THE PROVINCE'S APPROACH TO IMPLEMENTATION

The Province has indicated that the proposed PPS is expected to come into effect in fall 2023. The *More Homes Built Faster Act, 2022* (Bill 23) makes changes to the *Planning Act* that, upon full proclamation, will remove planning authority from Peel, making it an “upper-tier municipality without planning responsibilities”. The Province has advised that removal of planning responsibilities from Peel Region would not come into force until winter 2024 at the earliest. The timing of these two substantial legislated planning changes creates uncertainty and potential conflicts of conformity between provincial policy and the existing Regional Official Plan that is provincially approved.

Until related provisions from Bill 23 come into force, Peel Region remains the approval authority for local official plans and amendments which are required to be completed by November 2023. The timing of releasing the proposed PPS complicates Peel Region's review of local official plan updates and the approval of certain types of development applications, such as those proposing residential uses in established employment areas, due to conflicts between the proposed PPS and the Regional Official Plan. Transitional planning matters may also be addressed in the recommendations of the Transition Board appointed to support the dissolution of the Region under Bill 112, which the Province has indicated are anticipated to be provided by summer/fall 2024. Transition provisions are needed to address these potential conflicts.

Key Recommendation:

That local municipal official plan review timelines for Peel be extended until after the full implementation of Bill 23, the proposed PPS, and outcomes of Bill 112 are addressed. This will reduce the potential for inconsistencies between the application of new provincial policy and existing provincially approved official plans and avoid the need for local municipalities to undertake further updates of their official plans.

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Continued Implementation of 2051 Forecasts (at minimum)

On November 4, 2022, the Minister approved the April 2022 Regional Official Plan, bringing the Regional Official Plan into conformity with the Provincial Policy Statement and Growth Plan and approving specific population and employment forecasts to 2051. These forecasts are required to be implemented within local official plans. The Province has indicated that local municipalities are still expected to meet or exceed the growth forecasts allocated to them by Peel Region at this time. This creates a disconnect between the provincial vision of housing pledges and how they connect with 2051 population and employment forecasts that will continue to be implemented. Over time, municipalities will be expected to carry out their own forecasting without being required to follow a standard land needs assessment methodology as has been done in recent years which will make infrastructure planning more challenging.

Key Recommendation:

- Include policy direction regarding specific growth forecasts and requirements that large and fast-growing municipalities set minimum intensification and density targets that are locally appropriate (e.g., for inner and outer ring municipalities) and meet or exceed provincial guidelines. To ensure clarity and a consistent approach, provincial directions should continue to set and provide minimum standards for target setting.

Transition to Proposed Definition of “Area of Employment”

Bill 97 provides direction to municipalities to support transition including how to update official plans to align with the proposed redefinition of ‘Area of Employment’. The PPS implementation document states that time-sensitive official plan updates will need to be aligned with the new definition of “Area of Employment” but permits institutional, retail and office uses that are lawfully established before Bill 97 comes into effect. Once the legislative changes take effect, areas that do not meet the definition would no longer be subject to requirements for conversions to non-employment uses. Proposed transitional provisions would allow municipalities to amend their official plans to include policies so that office uses continue to be protected; however, these policies, if adopted, would likely be subject to appeal. Staff are seeking clarification on the timing of when such amendment would need to occur and whether the amendment would be subject to appeal.

Key Recommendation:

- That the Minister include provisions in the forthcoming transition regulations to Bill 97 regarding official plan amendments that allow for excluded uses in designated employment areas not be subject to appeal.

RISK CONSIDERATIONS

Bill 97 and the proposed PPS represent significant changes to the Province’s land use planning system. While not all risks can be quantified at this time, staff have identified those areas that pose the greatest risk.

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FINANCIAL IMPLICATIONS

Currently, Peel Region is responsible for delivering infrastructure that is required to facilitate development. Uncertainty from recent provincial planning direction places additional demands on servicing, such as new and existing water, wastewater, and transportation infrastructure. Peel Region is currently challenged with a capital infrastructure deficit of \$5.8 billion over the next 20 years. Changes that potentially further strain the ability to efficiently plan infrastructure will hamper municipal efforts to be fiscally sustainable.

The Province's proposal to delay the requirement for municipalities to refund zoning by-law and site plan application fees will have a direct positive benefit to local municipal fee revenues.

CONCLUSION

The proposed PPS does not provide municipalities with a framework to develop healthy, complete communities and removes many policies from the Growth Plan to protect the environment, consider climate change, and efficiently use land and resources. The proposed PPS acknowledges that municipal official plans are the most important vehicle for implementation of this policy direction and for achieving comprehensive, integrated, and long-term planning. Comments provided in the report are intended to help support the Province's development of a strong, effective provincial policy framework that addresses the needs of large and fast-growing municipalities.

Staff are seeking further clarification from the Province on matters as discussed in this report including the Province's approach to implementation and appropriate transition to recognize the unique challenges being faced by Peel.

APPENDICES

- Appendix I - Summary of the Proposed Provincial Planning Statement Policy Changes and Implications
- Appendix II - Region of Peel Response to the Province: Legislative and Regulatory Changes affecting the *Planning Act*, *City of Toronto Act, 2006*, and *Ministry of Municipal Affairs and Housing Act* Changes in Bill 97 – the proposed *Helping Homebuyers, Protecting Tenants Act, 2023* (ERO Postings 019-6821 and 019-6822)
- Appendix III - Region of Peel Response to the Province: Review of Proposed Policies Adapted from A Place to Grow and Provincial Policy Statement to Form a New Provincial Planning Policy Instrument (ERO Posting 019-6813)



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