

City of Mississauga
Corporate Report



<p>Date: May 1, 2023</p> <p>To: Mayor and Members of Council</p>	<p>Originator's files: LA.07-BIL</p>
<p>From: Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building</p>	<p>Meeting date: May 3, 2023</p>

Subject

Bill 97 “Helping Home Buyers and Protecting Tenants” and Implications for City of Mississauga

Recommendation

1. That Council endorse positions and recommendations contained and appended to the report titled *Bill 97 “Helping Home Buyers and Protecting Tenants” and Implications for City of Mississauga*, and authorize staff to prepare additional detailed comments, as needed.
2. That the Mayor or designate be authorized to make submissions to the Standing Committee with respect to issues raised in this report, or to otherwise provide written or verbal comments as part of the Ministry’s public consultation process.
3. That the Mayor, Council and staff advocate for the Province to consult further on the proposed employment planning regime. In particular, it is suggested that the Province engage with industry leaders that could be significantly impacted by proposed changes.
4. That the City Clerk forward this report to the Ministry of Municipal Affairs and Housing; Mississauga’s Members of Provincial Parliament, the Association for Municipalities Ontario, and the Region of Peel.

Executive Summary

- Bill 97 “Helping Home Buyers and Protecting Tenants” (the Bill) proposes several amendments to land use planning legislation. The Province has also released a new *Provincial Planning Statement* (proposed PPS, 2023), which combines the Provincial Policy Statement, 2020 (PPS) and *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2022* (Growth Plan) into a single document. The government has advised that proposed PPS, 2023, is expected to come into force in the fall of 2023.

- The proposed changes continue along the same path as previous rounds of amendments, with greater planning powers provided to the Minister of Municipal Affairs and Housing (the Minister), and a policy framework that is premised on the assumption that there is a lack of developable residential land. Despite this not being the case in most GGH municipalities, including Mississauga.
- Staff are most concerned with proposed changes to the GGH's employment planning regime. Mississauga has some of the most economically important employment lands in Canada and the operations of some of these areas could be significantly impacted. Staff suggest the current approach where employment lands can be considered for re-designation through the Municipal Comprehensive Review process worked well.
- Through the City's Action Plan for New Housing, Mississauga has demonstrated it has approvals in place or endorsed by Council to support 246,000 new units (more than double Mississauga's 120,000 unit housing target set by the Province). The Regional Planning Commissioners of Ontario (RPCO) also reported that approvals are also in place for 1.25M units (almost reaching the Province's target of 1.5M homes). Against this backdrop, it is unclear how the Province can justify releasing more lands to support residential development that are so important for local employment opportunities, the economy and our natural environment.

Background

The Bill works to implement some actions contained in *Ontario's Housing Supply Action Plan*, with the goal of increasing housing supply in Ontario by building 1.5 million new homes by 2032.

On April 6, 2023, the Honourable Steve Clark, Minister of Municipal Affairs and Housing, introduced the Bill to the legislature with changes to the *Planning Act*, *Municipal Act*, *Residential Tenancies Act* and the *Building Code Act*. The Province also proposed PPS, 2023 that combines the PPS and the Growth Plan into a single document.

Comment periods on the proposed changes (via three Environmental Registry of Ontario postings) close between May 6 and June 5, 2023. City staff will continue to update and advise Council on the impacts of Bill 97 and the proposed PPS, 2023 as they advance.

The purpose of this report is to: highlight to Council the major changes proposed in Bill 97 and PPS, 2023; the potential impacts on the City; identify areas of support and areas that should be reconsidered by the Province and have Council endorse all comments contained and appended to this report.

Comments

PROPOSED PROVINCIAL POLICY STATEMENT, 2023

Since 2006, the Growth Plan helped to manage growth in the GGH by laying out an urban structure that aligned growth with infrastructure investments, promoted complete communities, a range and mix of housing forms, and protected lands for natural heritage, prime agriculture and employment. The PPS augmented the Growth Plan with broader based policy directions, again promoting a well-managed and balanced approach to growth province-wide. The proposed PPS, 2023, seems to be based on two assumptions. First, that there needs to be more residential land designated to meet growth targets. And second, an individual development application based approach to employment land-use changes is preferable to the current comprehensive review approach.

Staff disagree with both of these points and suggest the Province may not fully grasp the land economic implications of the proposed changes. Specifically, the changes could lead to an immediate spike in the land values in employment areas with prospective purchasers speculating on what higher financial return uses (e.g. residential) could possibly be considered on the sites. This land value uplift makes it more expensive for potential new businesses developing as-of-right uses to locate in the areas, thereby hurting overall economic growth.

Staff need greater clarification from the Province on many of the policies in the proposed PPS, 2023, to more fully understand how these changes will impact the city going forward. However, staff are concerned there could be significant impacts on the city's residential to non-residential assessment and population to employment ratios. It could impact the types of uses that could go into our employment areas, the commercial buffers that separate heavy industry from residential areas and the ability to maintain commercial uses in communities.

Key changes are discussed below, and a detailed list of changes is included in Appendix 1.

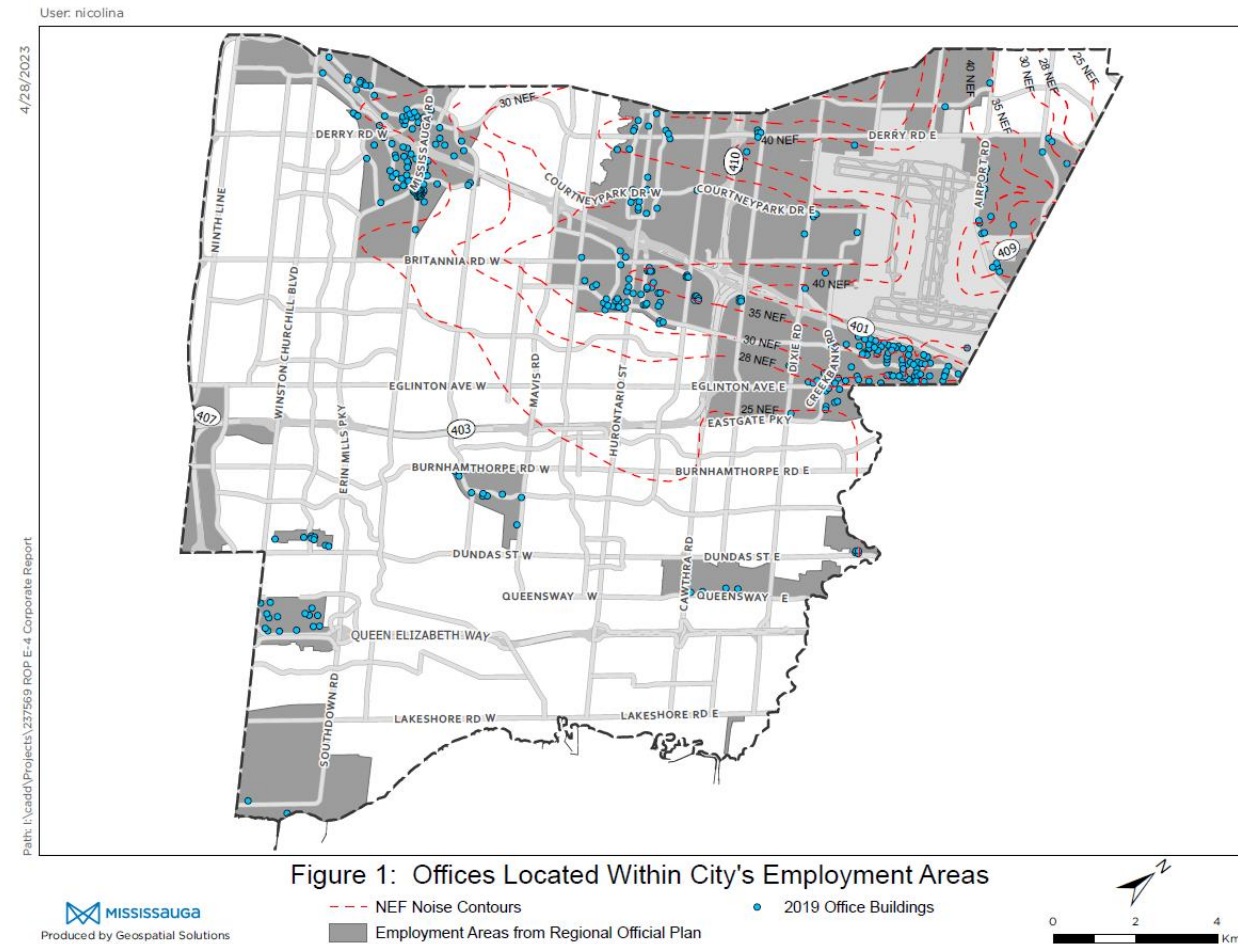
EMPLOYMENT

Changes to permitted uses in employment areas

Employment areas provide land for diverse employment uses to meet current and future needs, and do not permit residential development. In both Bill 97 and the proposed PPS, 2023, the Province is proposing to change how employment areas are defined by narrowing the list of uses in an employment area and removing commercial uses such as office and retail.

The Province proposes a clause in Bill 97 that may preserve existing clusters of business and economic uses in employment areas, but the drafting of this provision is unclear as to whether existing Official Plan policies will suffice or whether municipalities would need to introduce amendments to their Official Plans to keep existing office and retail buildings in employment areas.

Figure 1: Mississauga's Employment Areas and Office Buildings



Proposals to remove lands designated for commercial uses, could create major issues for retaining and attracting new businesses. For example, office users tend to prefer to cluster next to other offices. The introduction of certain industrial uses (e.g. metal clad building, with 100 dock doors, noise and odour emissions and outdoor storage) in a prestige office node could de-value existing offices. Staff are supportive of certain flexible options in office nodes and are in the process of expanding more life science permissions to office areas. The key point is the existing system worked well as municipalities could tailor the mix of employment uses permitted in each employment area based on the local context.

Commercial lands also provide access to services and amenities that support the wider employment area – e.g. restaurants, print shops, banks, courier services, etc. The proposed policies do not account for the important role that office and retail play within employment areas. Moreover, where there are commercial uses along the edges of employment lands, they create an important buffer between heavier employment uses such as manufacturing, and nearby residential communities. Through engagement with industrial users, staff have heard how

important that buffer function can be to their future success in Mississauga. Allowing sensitive land uses such as residential within these buffers could slowly erode employment areas and surrounding industrial operations and compromise their viability.

- ***Bill 97 and the PPS should continue to provide municipalities the option of designating for office and retail uses in employment areas.***

Proposed changes may impact the economic viability of key commercial uses

The pandemic has undoubtedly had a major impact on the office and retail market, however it is too early to understand how these impacts will play out over the long term. Proposed PPS, 2023, could have long term impacts on land economics that will be difficult to reverse.

Specifically, an employment area designation helps to moderate land values, which can make investments in office and retail uses attractive. The City has found that when land is removed from an employment area and opened for residential development, land values can increase in the order of 5 to 7 times. This increase in land value makes it difficult for office uses to compete. Mississauga's tax base relies heavily on commercial uses and it will important that these businesses continue to find lands in Mississauga that meet their requirements.

- ***Staff will need guidance from the Province on where it considers future offices and retail uses should be built. It seems the long-term land economic and business attraction implications have not been thought out.***

Outside of employment areas, retail and office protections are also being reduced

The Province is also proposing to make it easier to convert or redevelop lands with commercial buildings outside employment areas to residential uses. In Mississauga many commercial plazas, malls and aging office buildings are already facing significant redevelopment pressures. These commercial buildings however, are critical to meeting daily needs of residents, providing nearby amenities, services and local employment. Without these sorts of uses, it will be hard for Mississauga to create complete communities.

- ***City staff recommend that PPS, 2023 direct municipalities to plan for complete communities, and retain non-residential floor space on these sites as part of any future redevelopment wherever possible.***

More guidance needed for navigating compatibility issues

Staff are also seeking more clarification on how to decide when a sensitive land use should be permitted near industrial operators. Proposed PPS, 2023, may result in more conflicts between

sensitive land uses and industrial operations. For example, the proposed changes may make it easier for a sensitive land use to be permitted in proximity to major facilities.

- ***City staff will be looking to the Province to clarify its priorities for employment areas, as it appears that residential uses should be prioritized.***
- ***The Province should consult further with industry leaders that could be significantly impacted by proposed changes.***

Amendments to employment areas can now be made at any time

Currently, requests to remove lands from employment areas can only be made through the Municipal Comprehensive Review process that occurs every 5 to 10 years. The current approach allows for consideration of the supply of land to meet employment growth targets. Proposed PPS, 2023, appears to change this requirement and allow requests for lands to be converted at anytime.

This could place a significant burden on planning staff and Council who may be drawn into many conflicts and appeals. Staff are looking to the Province for more clarification on how amendments to employment areas can be made and/or subsequent appeal processes.

- ***The Province maintain the existing approach that conversions only be considered through a comprehensive approach at 5-10 year intervals, unless municipally initiated.***

GROWTH MANAGEMENT

Approved growth forecasts to be used for infrastructure planning

For Mississauga, the Province has clarified that the City can continue to use its recently approved population (e.g. 995,000 people at 2051) and employment forecasts. These were the forecasts contained in the Region of Peel Official Plan, approved in November 2022. The growth forecasts were updated following a detailed review of all applications in the pipeline (including preliminary applications), a review of market trends and absorption rates, and demographic information. In order to support Provincial Housing targets, City and Regional staff will work together to identify areas where infrastructure investments could be prioritized to open up new housing opportunities.

- ***City staff support the Province allowing Peel Region municipalities to keep using the approved growth forecast to 2051 as this forecast has already being used for infrastructure and community facilities master planning.***

Greenfield lands can be released more easily and no density targets to be applied

The Growth Plan had many interrelated policy tools to manage growth in greenfields. More specifically:

- Growth forecasts worked to limit the amount of greenfield land that could be released at the regional level (e.g. land could not be released in excess of forecasted growth).
- The intensification target ensured that a significant portion of that growth was directed to existing urban areas (e.g. the intensification target required 50% of growth to be directed to urbanized parts of the GGH).
- A greenfield density target (e.g. 50 people and jobs per hectare) was developed to ensure new growth would be transit supportive.
- In addition, new lands could only be released for urban development under a Municipal Comprehensive Review (MCR).

The Province proposes to remove these policy mechanisms. The collective impact of not releasing mandated growth forecasts, allowing growth targets to be minimums, eliminating intensification targets and permitting settlement boundary expansions at any time means that there are few constraints on how much land can be released. Having no greenfield density targets will increase the challenge of providing transit to new communities, compounding regional congestion.

Less dense development in Peel's greenfield areas could be more costly to service for Mississauga tax payers; it could also put more growth pressure on Peel's infrastructure budget if other regions open up more greenfield land, lowering growth in Peel.

- ***City staff urge the Province to carry forward the Growth Plan's essential policies to manage urban expansions and growth in greenfield to ensure these areas are developed as compact and complete communities and support a range of transportation options.***

Major Transit Station Areas (MTSA) policies carried forward

Proposed PPS, 2023, includes a policy framework for MTSA's that closely resembles policies contained in the Growth Plan. This will allow Mississauga's more than 60 MTSA's to continue to act as important places for growth and intensification. City staff have still not received clarification from the Minister on his recent correspondence regarding maximum heights in MTSA's. However, nothing in Bill 97 or in the proposed PPS, 2023, indicates that the Province would restrict municipalities from being able to place height limits in those areas.

If heights limits are removed from MTSA's, it could have significant implications for growth forecasting and would add uncertainty to planning for infrastructure in Mississauga. Given the significant number of MTSA's and their wide distribution throughout the city, it would be cost prohibitive / unfeasible to service 60 MTSA's to be ready for unlimited growth.

Compact and urban schools are encouraged

Proposed PPS, 2023, includes an innovative policy to encourage the development of schools and other public facilities in the base of condominium buildings. In an urbanized city like Mississauga, with limited sites to accommodate new schools and many children living in growth areas, this provincial direction should help see more local schools being built.

- ***City staff encourages the Province and school boards to be proactive in the supply of schools in areas of high growth and intensification as well as encouraging schools to be co-located within mixed-use and residential developments. The Province should help school boards with additional funding given the more costly nature of urban schools***

All decisions going forward must be consistent with new PPS

Implementation provisions require that all planning decisions (even for applications submitted under the previous regime) must be consistent with the PPS, 2023, (once it is adopted) even if the Official Plan has not been updated. Furthermore, Bill 97 proposes to allow the Minister to make regulations that could address different transition rules. This lack of clarity would create increased uncertainty in the planning process and in the review of development applications.

- ***The Province could reconsider the Official Plan review process. If the intent is to be consistent with the proposed PPS, the Province should develop transition provisions that remove the need to conform to the entire Region of Peel Official Plan, approved in November 2022 under the current planning framework. Instead, the transition should indicate that lower-tier municipalities within Regions with no approval authority have to review their official plans to conform to the new changes in the Planning Act and to be consistent with the proposed PPS, without the need to conform to those relevant sections in previously approved upper-tier municipalities' official plans.***
- ***Moreover, more time should be given as reviews of the Mississauga's planning regime as a result of these changes could be significant. The Province should include a transition extending the timeline for the completion of lower-tier official plan reviews to address conformity to the new changes to the Planning Act and to be consistent with a proposed PPS.***

LEGISLATIVE CHANGES

The proposed amendments under Bill 97 will see some changes to key land use planning legislation, including the *Planning Act*, *Municipal Act*, *Residential Tenancies Act* and the *Building Code Act*. Key changes are discussed below, and a detailed list of changes is included in Appendix 1.

Increased rights for tenants may improve housing conditions

The Province is proposing various amendments to the *Residential Tenancies Act*, with a large focus on strengthening tenants' rights. This includes changes to permit tenants to install air conditioners if one has not been provided, as well as strengthening regulations around the termination of tenancy for renovation purposes and/or bad faith evictions (e.g. where a family member has not moved in within a reasonable amount of time).

- ***Staff are supportive of these proposed changes and anticipate the changes will improve housing conditions and security for tenants in Mississauga and Ontario.***

Ministerial powers over zoning, Official Plans, by-laws and municipal agreements continue to be expanded

A theme common among all the recent planning regime changes has been the shift towards centralizing planning powers with the Minister. This Bill is no exception, and it creates several new tools that the Minister can use to override municipal decisions and policies. These powers are intended to impact the City's ability to use some key planning tools (e.g. zoning, Official Plans and By-laws) as well as bind it to provincially led agreements.

- ***If the Province intends to continue to make frequent use of MZO's, and these other tools that more or less act the same way as an MZO, then staff suggest that their use should be limited to situations that have a clear public benefit and supporting rationale.***
- ***Two-way consultation with upper and lower-tier municipalities should be mandatory when using these tools. Moreover, Provincial staff should be responsible for informing the community about any changes resulting from their use.***
- ***The Province should collaborate with municipalities to build up their expertise in preparing municipal planning implementing documents. As well, the Province should work with municipal staff to ensure that provincial decisions do not undermine the City's ability to negotiate for costs.***

Financial Impact

There are no financial impacts resulting from the Recommendations in this report.

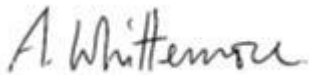
Conclusion

Through the City's *Action Plan for New Housing*, Mississauga has demonstrated it has approvals in place, or endorsed by Council, to support 246,000 new units (more than double the housing target set by the Province). The Regional Planning Commissioners of Ontario have also reported approvals are in place for 1.25M units.

Against this backdrop, it is unclear why the Province would want to release further lands for development that support some of Canada's most critical employment areas. It is hoped that the Province will consult more and learn about some of the unintended consequences that could result from these proposed changes to employment areas as they could be detrimental for Mississauga and the region's economic prosperity.

Attachments

Appendix 1: Detailed Comments to Province



Andrew Whitemore, M.U.R.P., Commissioner of Planning & Building

Prepared by: Katherine Morton, Manager, City Planning Strategies, Planning Strategies and Data