

April 24, 2024

To our Municipal clients:

Re: Assessment of Bill 185, *Cutting Red Tape to Build More Homes Act, 2024* and the Proposed Provincial Planning Statement, 2024

On behalf of our many municipal clients, we are writing to inform you of the Ontario Legislature's proposed changes to the *Planning Act* under Bill 185 (*Cutting Red Tape to Build More Homes Act*) and the proposed Provincial Planning Statement, 2024 (PPS, 2024). The primary focus of this letter is to provide our assessment of the proposed PPS, 2024 and its potential impacts on growth management in Ontario. The proposed PPS, 2024 was released in coordination with Bill 185 on April 10, 2024, for a 30-day comment period. The comment period on the proposed PPS, 2024 ends on May 12, 2024 (the deadline was extended by two days after the release of the French version of the proposed PPS, 2024). The PPS is provided under section 3 of the *Planning Act* and if the proposed PPS, 2024 is approved, all municipal decisions would be required to be consistent with the PPS, 2024 under subsections 3 (5) and 3 (6) of the *Planning Act*.

1. Proposed Planning Act Changes

With respect to the proposed changes to the *Planning Act* under Bill 185, we have identified the following key impacts as they broadly relate to growth management in Ontario.

Upper-Tier Municipalities with No Planning Responsibilities to Come into Effect on July 1, 2024, for the Regional Municipalities of Halton, Peel, and York

- The Province introduced the concepts of “upper-tier municipalities without planning responsibilities” and “upper-tier municipalities with planning responsibilities” to the *Planning Act* as part of Bill 23. “Upper-tier municipalities without planning responsibilities” includes a list of seven upper-tier municipalities comprising all the upper-tier municipalities in the Greater Toronto Area, as well as the County of Simcoe, the Region of Niagara, and the Region of Waterloo. Bill 185 builds upon this and amends the *Planning Act* to implement changes to certain upper-tier municipalities, “upper-tier municipalities without planning responsibilities.”
- Under Bill 185, the Region of Halton, the Region of Peel, and the Region of York will become “upper-tier municipalities without planning responsibilities” on July 1, 2024. The County of Simcoe, the Region of Durham, the Region of Niagara, and the Region of Waterloo will become “upper-tier municipalities without planning



responsibilities” at a future date to be named by proclamation of the Lieutenant Governor.^[1]

- Upon the review of Bill 23, Watson & Associates Economists Ltd. (Watson) previously expressed concerns with these significant changes to regional planning. We anticipate that there will continue to be a strong need for impacted upper-tier municipalities to address regional growth management coordination efforts (e.g., coordination of regional growth forecasts and regional urban land needs assessments, assessment of regional infrastructure needs and review of cross-jurisdictional issues) working with their area municipalities.

Elimination of Third-Party Appeal Rights to Include Municipally Approved Official Plans, Official Plan Amendments, Zoning By-Laws and Zoning By-Law Amendments

- As part of Bill 23, the Province amended the *Planning Act* to limit appeals for minor variances, a plan of subdivision, or a consent to sever to the applicant, the municipal authority, the Minister, or a “specified person.” “Specified person” is a new term introduced with the intent to focus appeals on a more focused group, including applicants, public bodies, Indigenous communities, and utilities providers. Appeal rights removed include third-party landowners, ratepayers, and other members of the public that are not the applicant, the Minister, an approval authority, a public body, or a “specified person.” Under Bill 185, it is proposed that the elimination of third-party appeals would be extended to include municipally approved Official Plans, Official Plan Amendments, Zoning By-laws and Zoning By-law Amendments.^[2]
- Bill 185 proposes to remove appeal rights for “upper-tier municipalities with no planning responsibilities”; these upper-tier municipalities will only be able to provide comments on applications. As a result, utility providers will have stronger tools (including appeal rights) to protect their infrastructure relative to upper-tier municipalities who are responsible for managing and building infrastructure, as well as the associated risks (e.g., financial and public safety).^[3]

Restore Appeal Rights for Privately Initiated Settlement Area Boundary Expansions

- Private-sector applications for a boundary of area of settlement (settlement area expansions) can be appealed to the Ontario Land Tribunal (OLT) provided that it

^[1] Bill 185, Schedule 1, section 1.

^[2] Bill 185, Schedule 12, section 3 (1).

^[3] The Regional Municipality of York, Report of the Commissioner of Corporate Services and Chief Planner for Regional Council on April 25, 2024 – Cutting Red Tape to Build More Homes Act, 2024 (Bill 185) – Proposed Changes to Planning Act, 1990, Municipal Act, 2001 and Provincial Planning Statement.



is not within the Greenbelt Area. Under the current *Planning Act*, an applicant cannot appeal an Official Plan Amendment or Zoning By-law Amendment application that would expand or alter an in-force settlement area boundary.^[1] It is important to note that this appeal right does not extend to settlement boundary expansions that have received a Minister's decision as part of an Official Plan and Official Plan Amendment. The Minister's decision is still final.

- Permitting appeals may result in more land being designated through OLT decisions than what was identified by municipalities in Official Plans and would potentially have the impact of undermining local growth management objectives established through an Official Plan Review.

A New “Use it or Lose it” Tool for Municipalities to Tackle Stalled Developments

- Proposed changes to the *Planning Act* include a new “use it or lose it” tool for municipalities to tackle stalled developments that have unused servicing capacity allocation (water and sewage servicing). The proposal as part of Bill 185, includes a framework for the municipality to expand the scope of lapsing provisions, including requiring approval authorities to impose a lapsing condition for all draft subdivision/condominium and site plan control approvals.^[2] Previously, this was an option for municipalities; now it is a requirement. It should be noted that municipalities can provide for lapsing provisions of previous applications, subject to notice to the owner.^[3]
- The new provisions would provide an incentive for developers/builders to move forward on an approved application. From a growth management perspective, this tool would potentially provide more certainty when determining housing and land supply potential to accommodate growth within the short term.

Create a New “Servicing Management” Tool to Facilitate Infrastructure Servicing Re-Allocation to Make More Efficient Use of Municipal Servicing Capacity

- This bill proposes to create a new municipal servicing management tool that would explicitly authorize municipalities to adopt policies by by-law (if they do not already exist) to establish how water and sewage servicing of an approved development is managed. Furthermore, it would enable municipalities to allocate and reallocate servicing capacity to other projects if the approved development has not proceeded after a specified timeline and the servicing is needed elsewhere in the service area. Should municipalities adopt such a by-law, it would not be appealable to the OLT.^[4]

^[1] Bill 185, Schedule 12, section 6 (4).

^[2] Bill 185, Schedule 12, section 10 (3) and section 12.

^[3] Bill 185, Schedule 4, section 2.

^[4] Bill 185, Schedule 12, section 14.



- Currently, the *Planning Act* already provides municipalities with the authority to enact by-laws to establish an allocation system for water and wastewater servicing for lands that are subject to a draft plan of subdivision. Bill 185 proposes to repeal this provision of the *Planning Act* and give municipalities the authority to pass by-laws to create a policy for water and servicing capacity, which may include the tracking of water and wastewater servicing capacity for approved developments and establishing criteria for the allocation to future development applications.^[1] Bill 185 proposes to replace this policy in the *Planning Act* and to add a new section 86.1 to Part III (Specific Municipal Powers) of the *Municipal Act, 2001*.^[2]
- These changes will empower municipalities to shift servicing allocation that will deliver the development of homes and employment growth opportunities faster. Furthermore, it provides more transparency on the expectations of servicing for future development applications.

Elimination of Parking Standards in Protected Major Transit Station Areas to Provide More Flexibility

- Proposed changes to the *Planning Act* will include prohibiting municipalities from setting parking minimums in Protected Major Transit Station Areas (PMTSAs). This would allow the market and developers the ability to decide the parking requirements in PMTSAs based on market needs.^[3] This could provide opportunities to increase housing yields in PMTSAs and possibly reduce development costs through potentially lower parking requirements.

A New Minister's Zoning Orders (MZO) Framework

- To provide better transparency at the provincial level, the Province has established a framework setting out how requests for zoning orders will be received and considered. The framework includes intake thresholds, submission requirements, and a process for Ministry assessment and decision-making. The intake requirements would need to demonstrate that the MZO delivers on a provincial priority that is supported by an Ontario government ministry and/or is supported by a single-tier or lower-tier municipality through a municipal council resolution or a letter from a mayor with strong mayor powers. Formal input from upper-tier municipal councils is excluded from the intake requirements. Submission requirements that should be provided with an application include a rationale on why the project requires ministerial zoning relief rather than following

^[1] Based on interpretation by McMillan LLP, Introducing Bill 185, the Cutting Red Tape to Build More Homes Act, and an Update on the New Provincial Planning Statement, April 17, 2024.

^[2] Bill 185, Schedule 9 (*Municipal Act, 2001*).

^[3] Bill 185, Schedule 12, section 2.



municipal planning processes; a description of consultation with the public and engagement with Indigenous communities; and information related to how and when servicing (water/wastewater) will be addressed.^[1]

- While the applicant is required to demonstrate that it supports provincial priorities and/or local council support, the MZO framework does not require an applicant to support the need for the application in consideration of existing urban land supply opportunities, the status of other applications within municipalities, or forecast demand for housing within an established planning horizon. Provincial priorities established in the framework are very broad and include addressing housing and economic development opportunities which would not limit many applications, if any.
- We continue to support the recommendations provided to the Province by the Association of Municipalities of Ontario to improve the MZO framework that would include MZOs being used in collaboration with municipalities and use MZOs only in situations of extraordinary urgency.^[2]

Remove the Community Infrastructure and Housing Accelerator Tool from the *Planning Act*

- The proposed changes would include removing the Community Infrastructure and Housing Accelerator (CHIA) tool (brought in under Bill 109) from the *Planning Act*.^[3] Instead of the CHIA tool, municipalities can rely on the new MZO framework that provides clarity on how MZO requests from municipalities will be received and considered going forward.
- Proposed transition rules will be provided to permit CHIA orders that have been made to date to continue functioning as municipal zoning by-laws.

Enhance and Expand Municipal Planning Data Regulation (O. Reg. 73/23) to Include 21 Additional Municipalities (50 Municipalities in Total)

- On April 6, 2023, Ontario Regulation (O. Reg.) 73/23: Municipal Planning Data Reporting (as part of Bill 109), came into effect. This regulation requires 29 municipalities in Ontario to report information on planning matters to the Ministry on a quarterly and annual basis. The 29 municipalities have already provided reporting on a quarterly basis. Under Bill 185, this would be expanded to 50 municipalities.^[4]

^[1] Province of Ontario – Zoning Order Framework, retrieved online: [Zoning order framework | ontario.ca](https://www.ontario.ca/framework), accessed April 19, 2024.

^[2] Association of Municipalities of Ontario, retrieved online: [Bill 185, Cutting Red Tape to Build More Homes Act, 2024 | AMO](https://www.amo.on.ca/bill-185-cutting-red-tape-to-build-more-homes-act-2024), accessed April 19, 2024.

^[3] *Planning Act*, section, 34.1.

^[4] Environmental Registry of Ontario, ERO 019-8368, Proposed Amendments to Ontario Regulation 73/23: Municipal Planning Data Reporting.



- The reporting requirements include preparing a standardized summary table that outlines key statistics on planning applications for each quarterly report (e.g., total number of submissions, decisions) and documenting changes to settlement area boundaries, Employment Area conversions, and major transit station areas (MTSAs) on an annual basis. Providing geospatial data that identifies designated serviced land supply is also required as part of the reporting. The additional 21 municipalities would be required to publish this summary on their respective municipal webpages and update the summary each quarter, beginning October 1, 2024.^[1]
- It is our opinion that this regulation change is a key step forward in setting minimum standards for municipalities in reporting land supply. This also provides an opportunity for the municipalities to build upon these provincial requirements and proactively track and monitor growth, which will better empower municipalities in making informed decisions on planning for growth.

Enhancing and Broadening the Framework for Additional Residential Units

- Under subsection 35.1 (2) of the *Planning Act*, the Minister is authorized to make regulations regarding Additional Residential Units (ARUs) by establishing requirements and standards with respect to a second or third residential unit in a detached house, semi-detached house, or rowhouse, as well as a residential unit in a building or structure ancillary to such a house.
- Bill 185 proposes to broaden provisions to allow the Minister to regulate any ARUs in an existing home (as noted above) or ancillary structure for the purposes of an ARU. If approved, the Minister will have a new regulation-making power to remove zoning barriers to accommodate ARU developments which may include maximum lot coverage and limits on the number of bedrooms allowed per lot.^[2]

2. Proposed Provincial Planning Statement, 2024

In 2023, the Province set in motion consultation on a Provincial Planning Statement (PPS, 2023) that proposes to integrate the Provincial Policy Statement, 2020 (PPS, 2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) into a single document. The proposed PPS, 2023 was released for public comment in April 2023 and was introduced as part of Bill 97 – *the Helping Homebuyers, Protecting Tenants Act*. On April 10, 2024, the Province posted another draft of the PPS. Based on a review by Watson, we note that the PPS, 2024 is not significantly different than the previous PPS, 2023. There are, however, more parameters, additional guidance, and strengthening of policies related to the management of growth

^[1] Ontario Regulation 73/23 filed April 6, 2023, under *Planning Act*, R.S.O. 1990, c. P.13.

^[2] Bill 185, Schedule 12, section 9.



relative to the proposed PPS, 2023. Provided below are key highlights of the proposed PPS, 2024 with a key focus on growth management in Ontario. Some of the highlights below include policies that are proposed to be carried forward from the PPS, 2023.

A Flexible Growth Forecast Horizon

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.”^[1] Based on our interpretation of the proposed PPS, 2024, 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.

Initial Direction on Growth Forecasting

The proposed PPS, 2024 notes that “planning authorities shall base population and employment growth forecasts on Ministry of Finance (MOF) 25-year projections and may modify projections, as appropriate”^[2] (underlining added). It is our interpretation that municipalities are not required to utilize the MOF forecasts and that they are not meant to replace long-term forecasting by municipalities. It is important to note that the MOF population forecasts are provided at the Census division level only, which typically represents upper-tier municipalities, including separated municipalities (e.g., the City of Stratford and the Town of St. Marys are included with the County of Perth Census Division) and large urban single-tier municipalities. The MOF does not provide forecasts at the area municipal level.^[3] Furthermore, the most recent Summer 2023 MOF forecast provides growth estimates to the year 2046. Subsection 2.1.3 of the proposed PPS, 2024 states that urban land needs can be calculated up to 30 years. As such, current MOF forecasts would need to be extended from 2046 to 2054 to accommodate a full 30-year planning horizon. It is our interpretation that the use of the MOF forecasts is not meant to replace long-term forecasting by municipalities but the forecasts are to be used as a starting place in establishing forecasts and testing the reasonableness of alternative regional forecasts and area municipal growth allocations, a practice that Watson currently carries out.

Municipalities within the Greater Golden Horseshoe (GGH) are required to continue to use forecasts issued by the Province through Schedule 3 of the Growth Plan until more

^[1] Proposed PPS, 2024, policy 2.1.3, p. 6

^[2] Proposed PPS, 2024, policy 2.1.1, p. 6

^[3] Census division is the general term for provincially legislated areas (such as municipality, county, region or district) or their equivalents. Census divisions are intermediate geographic areas between the province/territory level and the municipality (Census subdivision).



current forecasts are available to 2051, as informed by guidance provided by the Province.^[2] Forecasts established in Schedule 3 of the Growth Plan and the allocation of growth by lower-tier municipality are to be considered minimum growth forecasts. It is unknown at this time whether this policy of growth forecasts as minimums will be carried forward. We anticipate that future guidance documents will provide direction on this matter.

It should be noted that the proposed PPS, 2024 encourages growth management undertaken by municipalities to be coordinated with adjacent planning authorities when planning is not conducted by an upper-tier municipality.^[3] We envision the need for local municipalities, where planning is not conducted by an upper-tier municipality, to include a consultation process or technical advisory group comprising representatives of adjacent municipalities when conducting Official Plan Reviews and other related comprehensive planning studies.

Minster's Zoning Orders (MZO) are Considered in Addition to Projected Needs

According to the proposed PPS, 2024, MZO are to be treated as “in addition to projected needs” over the planning horizon. In planning for MZO lands, the proposed PPS, 2024 states these lands must be incorporated into the Official Plan and related infrastructure plans.^[4] Since MZO lands are not tied to an assessment of need, it is recommended that when planning for these lands the timing of their buildout is not held to a targeted minimum or maximum planning horizon. As such, it is recognized that full development of MZO may or may not extend beyond the 30-year maximum planning horizon set out in the proposed PPS, 2024, subject to anticipated economic growth and real estate market demand within the municipality and the broader economic region over the horizon of the plan. It is our opinion that the timing of development regarding approved MZO should be established through provincial and local phasing policies, municipal servicing plans, and reviewed through regular monitoring.

Providing for an Appropriate Range and Mix of Housing Options

Similar to the proposed PPS, 2023, under subsection 2.1.4 of the proposed PPS, 2024 planning authorities are to:

- a) maintain at all times the ability to accommodate residential growth for a minimum of 15 years through lands which are designated and available for residential development; and

^[2] Proposed PPS, 2024, policy 2.1, p. 6; and Environmental Registry of Ontario, ERO 019-8462: Review of proposed policies for a new provincial planning policy instrument.

^[3] Proposed PPS, 2024, policy 6.2.10, p. 36.

^[4] Proposed PPS, 2024, policy 2.1.1, p. 6.



- b) maintain at all times where new development is to occur, land with servicing capacity to provide at least a three-year supply of residential units available through lands suitably zoned, including units in draft approved registered plans.

We recommend that where planning authorities have established minimum targets for intensification and redevelopment, these targets are considered in the assessment of proposed PPS, 2024 policy 2.1.4. a) and b).

Subsection 2.1.5 of the proposed PPS, 2024 identifies that where planning is conducted by an upper-tier municipality, the land and unit supply maintained by the lower-tier municipality shall be based on and reflect the allocation of population and units by the upper-tier municipality. This policy emphasizes the need for urban land and housing needs to be assessed at the local municipal level within two-tier planning systems.

Anticipated Guidance Documents on Growth Forecasting and Land Needs

We anticipate that the Province will release a guidance document on projecting growth and associated land requirements.^[5] On March 12, 2024, the Province re-opened a proposal on Environmental Registry Ontario (ERO) for A Proposed Approach to Update the Projection Methodology Guideline.^[6] This proposal was initially posted in June 2021 following the release of the PPS, 2020. As noted in the ERO proposal summary, the last provincial guidance document on growth projections and land needs for the entire Province was provided in 1995. The 1995 Projection Methodology has been generally used by Watson as a source of best practice for growth forecasting. Since 1995, the Province released a Land Needs Assessment Methodology for the GGH with a few updates.^[7] This document has since been used as a best practice for projecting growth and urban land needs across the GGH.

It should be noted that the Province has not yet updated the document entitled, “Proposed Approach to Implementation of the Proposed Provincial Planning Statement” which accompanied the proposed PPS, 2023 in April 2023.

^[5] The ERO 019-2346 proposal summary notes that “Guidance for projecting population and related land requirements may be updated after finalization of the proposed Provincial Planning Statement to reflect final policy direction and considering feedback received.”

^[6] Environmental Registry of Ontario, ERO 019-2346, A Proposed Approach to Update the Projection Methodology Guideline.

^[7] The last update to the methodology came into effect on August 28, 2020. The proposed PPS plans to combined both the PPS and the Growth Plan and if approved, this document would no longer be in force.



No Significant Policy Change and Approach to Planning for Affordable Housing

The proposed PPS, 2024 carries forward a similar definition of affordable housing as established in the PPS, 2020. The definition of affordable housing in the proposed PPS, 2024, however, is based on the municipality instead of the regional market area as defined in the PPS, 2020. The definition of affordable housing was notably missing in the proposed PPS, 2023. Additionally, the proposed PPS, 2024 carries forward the requirement of “establishing and implementing minimum targets for the provision of housing that is affordable to low- and moderate-income households.”^[9] The proposed PPS, 2024 does not address the issue of attainable housing, an issue that was also lacking in the PPS, 2020.

Settlement Areas Remain Focus of Growth and Development

The proposed PPS, 2024 identifies that settlement areas shall be the focus of growth and development. Within settlement areas, where applicable, growth should be focused in Strategic Growth Areas (SGAs), including Major Transit Station Areas (MTSAs), and that planning authorities shall support general intensification and redevelopment to promote the achievement of complete communities. Planning authorities are encouraged to establish and implement minimum targets for intensification and development within built-up areas, based on local conditions. Planning authorities are also encouraged to establish density targets for designated growth areas, based on local conditions. Large and fast-growing municipalities are encouraged to plan for a target of 50 residents and jobs per gross hectare in designated growth areas. Large and fast-growing municipalities are identified in Schedule 1 of the proposed PPS, 2024.

Based on our experience, all large and fast-growing municipalities are anticipated to achieve average densities in designated growth areas above 50 residents and jobs per gross hectare. Accordingly, it is recommended that this density target is considered a minimum.

Identifying New Settlement Areas and Settlement Area Boundary Expansions

According to the proposed PPS, 2024, Settlement Area Boundary Expansion (SABE) is allowed at any time and without the requirement of a Municipal Comprehensive Review or Comprehensive Review, provided that all PPS policies under subsection 2.3.4 are considered.^[10] Furthermore, the policies allow for a simplified and flexible approach for municipalities to undertake a SABE which would require a demonstrated need for urban expansion. It should be noted that the criteria in the proposed PPS, 2024 has been expanded compared to the proposed PPS, 2023. Additionally, the language has

^[9] Proposed PPS, 2024, policy 2.2.1, p. 7.

^[10] Proposed PPS, 2024, policy 2.3.4, p. 7. Under the A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 and the PPS, 2020, SABEs were permitted only through a Municipal Comprehensive Review.



changed from “should consider” in the proposed PPS, 2023 to “shall consider” in the proposed PPS, 2024. The proposed PPS, 2024 does carry over the concept of demonstrating the need for additional land as identified in the PPS, 2020 which was not included in the proposed PPS, 2023.

While the proposed PPS, 2024 does not require a prescriptive approach to determining the need for expansion as provided in the Growth Plan or the PPS, 2020, it does require municipalities to consider infrastructure needs and the phased progression of growth. Furthermore, for new settlement areas, the proposed PPS, 2024 adds a stand-alone policy requiring municipalities to demonstrate that the infrastructure and public service facilities are planned or available for new settlement areas.^[11]

We recommend that a policy is added to subsection 2.3.2.1 of the proposed PPS 2024 that identifies where planning authorities have established minimum targets for intensification and redevelopment within built-up areas and that implementation of these targets shall be considered prior to identifying the need for new settlement areas.

Planning for Growth in Major Transit Station Areas

Under the proposed PPS, 2024, intensification policies have become less prescriptive compared to the PPS, 2020, with a focus on encouraging rather than setting out requirements. As previously noted, according to the proposed PPS, 2024, planning authorities are encouraged (rather than required) to establish minimum targets for intensification and redevelopment within their respective built-up areas. Targets for intensification are encouraged in MTSA's and all municipalities (i.e., not just large and fast-growing municipalities as identified in the proposed PPS, 2023) shall plan to meet minimum density targets.^[12] Minimum density targets for MTSA's are based on the transit service level:

- a) 200 residents and jobs combined per hectare for those that are served by subways;
- b) 160 residents and jobs combined per hectare for those that are served by light rail or bus rapid transit; or
- c) 150 residents and jobs combined per hectare for those that are served by commuter or regional rail.^[13]

^[11] Proposed PPS, 2024, policy 2.3.2, p. 8.

^[12] Proposed PPS, 2024, policy 2.2.3.1.4, p. 8

^[13] Proposed PPS, 2024, policy 2.2.3.1.4, p. 8



Expanded Scope of Strategic Growth Areas, but No Targets on Density

The proposed PPS, 2024 carries over the concept of SGAs from the proposed PPS, 2023. The concept of SGAs was initially introduced in the Growth Plan. According to the proposed PPS, 2024, SGAs include:

major transit station areas, existing and emerging downtowns, lands adjacent to publicly assisted post-secondary institutions and other areas where growth or development will be focused, that may include infill, redevelopment (e.g., underutilized shopping malls and plazas), brownfield sites, the expansion or conversion of existing buildings, or greyfields. Lands along major roads, arterials, or other areas with existing or planned frequent transit service or higher order transit corridors may also be identified as strategic growth areas.^[14]

The proposed PPS, 2024 expands on the description of SGAs to include a greater range of site areas focused for infill and redevelopment, such as underutilized shopping malls and plazas, suggesting that SGAs may include a range of site sizes, with an expanded focus on non-residential sites. It is important to note that, unlike the proposed PPS, 2023, the proposed PPS, 2024 encourages all municipalities (i.e., not just the large and fast-growing municipalities) to focus growth and development in SGAs to achieve higher density outcomes.

Other than minimum density targets for MTSAs, minimum density targets for other SGAs have not been carried forward from the proposed PPS, 2023 and the Growth Plan. Furthermore, Urban Growth Centres, a component of SGAs set out in the proposed PPS, 2023 and the Growth Plan, have not been carried forward in the proposed PPS, 2024. Instead, the proposed PPS, 2024 provides more simplified direction to plan for downtowns as SGAs.

A Narrow Definition of Employment Area

The proposed PPS, 2024 includes an updated definition of Employment Area based on the amendment of the *Planning Act* on June 8, 2023. The *Planning Act* was amended under subsection 1 (1) to include a new definition of “area of employment.” The amendment to the *Planning Act* received Royal Assent as part of Bill 97 on June 8, 2023. The definition change in the *Planning Act* would require proclamation before it becomes in effect.

Under the new definition of Employment Area, municipalities are required to plan for, and protect, industrial uses based on a more narrowly scoped definition of Employment Area and are limited to these uses that are primarily industrial in nature or other uses associated or ancillary to the primary use. Employment Area lands and uses that do not

^[14] Proposed PPS, 2024, definitions, p. 53.



meet the definition of Employment Area should be removed from Employment Areas. Lands that do not meet the Employment Area definition would not be subject to provincial Employment Area protection policies and would allow for opportunities for residential and other non-employment uses.^[15]

In light of the definition change of Employment Area, a key concern for municipalities will be their ability to provide an urban structure that will support employment uses outside of Employment Areas, particularly non-retail commercial and institutional uses (e.g. office uses, training and education, entertainment, wholesale trade and service repair centres). Traditionally, Employment Areas have been regarded as areas protected for key targeted employment sectors, especially those in the export-based sectors.

As previously discussed, municipalities are allowed to forecast beyond a 30-year period for Employment Areas.^[16] Furthermore, it should be noted that the Provincially Significant Employment Zones identified in the Growth Plan are not proposed to be carried forward. The Province has suggested in the PPS, 2024 proposal summary that the policies in the PPS are sufficient for protection for Employment Areas.^[17]

Unlocking Residential Opportunities on Non-Residential Lands and Supporting Mixed-Uses

The proposed PPS, 2024 requires that municipalities unlock more opportunities for housing, stating that municipalities should support redevelopment of commercially designated retail lands (e.g., underutilized shopping malls and plazas) to support mixed-use residential.^[18] Furthermore, the proposed PPS, 2024 notes that Employment Areas that do not meet the definition of Employment Area, referred to as “employment outside of Employment Areas” should support a diverse mix of land uses, including residential uses.^[19] These lands generally would include office business parks, commercial and institutional lands, and employment lands that do not meet the definition of Employment Area. It is also suggested that specific industrial, manufacturing, and small-scale warehousing uses that do not require separation from sensitive land uses are to be encouraged to locate in mixed-use areas or SGAs where frequent transit service is available, outside of Employment Areas.^[20] Again, under the proposed policy framework, municipalities are anticipated to face greater long-term challenges regarding their ability to strike a balance in accommodating mixed-use development and ensuring an adequate supply of non-residential lands to support employment uses outside of

^[15] Proposed PPS, 2024, definitions, p. 34.

^[16] Proposed PPS, 2024, policy 2.1.3, p. 6.

^[17] Environmental Registry of Ontario, ERO 019-8462, Review of Proposed Policies for a New Provincial Planning Policy Instrument, Proposal Summary, Section 2.

^[18] Proposed PPS, 2024, policy 2.4.1.3, p. 9.

^[19] Proposed PPS, 2024, policy 2.8.1.3, p. 13.

^[20] Proposed PPS, 2024, policy 2.1.8.2, p. 11.



Employment Areas, especially with increasing market pressure to accommodate residential development.

Employment Area Conversions Referred to as Removals of Employment Areas

The proposed PPS, 2024 carries forward similar policies on conversions provided in the proposed PPS, 2023. Under the proposed PPS, 2024, municipalities are provided with greater control over Employment Area conversions (now referred to as Employment Area removals) with the ability to remove lands from Employment Areas at any time. Previously, under the PPS, 2020 and the Growth Plan, municipalities were required to review changes to designated Employment Areas during a Municipal Comprehensive Review or Comprehensive Review. Under the proposed PPS, 2024, municipalities are required to demonstrate that there is an identified need for the removal and the land is not required for Employment Area uses over the long term. Furthermore, the Employment Area removal requires consideration of the impact of the produced use on the function of the Employment Area and whether existing infrastructure and public facilities can accommodate the proposed use.^[23]

It is important to recognize that the definition change may result in already developed Employment Area lands not meeting the definition. Based on the proposed PPS, 2024 emphasis on supporting mixed uses, going forward, municipalities will need to assess whether existing Employment Areas meet the new provincial definition and identify areas that should transition into mixed-use areas. While municipalities are required to plan Employment Areas according to the new definition, existing uses that were legally established prior to the *Helping Homebuyers, Protecting Tenants Act, 2023* came into force are allowed the continuation of use, regardless of whether the use meets the definition change.^[24]

Planning for Growth in the Rural Area Directed to Rural Settlement Areas

Compared to the PPS, 2020, the proposed PPS, 2024 does not significantly change the direction of growth within rural areas. As noted in the proposed PPS, 2024, in rural areas, rural settlement areas “shall be the focus of growth and development and their vitality and regeneration shall be promoted.”^[28] A key update in the proposed PPS, 2024 includes permitting more housing on farms to support farmers, farm families, and farm workers without creating new lots (enhanced policy and criteria supporting additional units).^[29] Unlike the proposed PPS, 2023, the proposed PPS, 2024 does not carry forth policies that would have permitted lot creation in prime agricultural areas.

^[23] Proposed PPS, 2024, policy 2.8.2.4, p. 12.

^[24] *Planning Act*, Schedule 6, section 1 (2).

^[28] Proposed PPS, 2024, policy 2.5.2, p. 11.

^[29] Environmental Registry of Ontario, ERO 019-8462, Review of Proposed Policies for a New Provincial Planning Policy Instrument, Proposal Summary, section 1.



No New Direction on Planning for Rural Employment Areas

The proposed PPS, 2024 identifies that development within rural areas needs to be assessed within the rural context in terms of the scale of servicing and character.^[30] No further direction is provided with respect to development within existing or new Rural Employment Areas. Under subsection 2.2.9.5 of the Growth Plan, the Province provided a framework for Rural Employment Area expansions. The framework identified that expansion of Employment Areas outside settlement areas on rural lands that were designated for employment uses may only be permitted if necessary to support the immediate needs of existing business and if compatible with the surrounding uses.^[31] The proposed PPS, 2024 does not carry forward this policy. Based on the proposed PPS, 2024, it appears that expansion of Rural Employment Areas in the GGH is no longer subjected to the policies that prohibited the creation of new Employment Areas in the rural areas.

New Emphasis in Planning for Public Service Facilities

The proposed PPS, 2024 includes a new definition of public service facilities and requires a greater emphasis on coordination with public service providers, as well as planning for emergency management services, health care institutions, schools and post-secondary institutions.^[32] It is noted that municipalities can plan beyond a 30-year period for public service facilities.^[33]

Consideration of a Student Housing Strategy

The proposed PPS, 2024 recognizes the importance of planning for a post-secondary population, especially in municipalities with a post-secondary institution. This is the first time that provincial planning policy has acknowledged the need to consider student housing needs. The word “student” is not mentioned at all in the PPS, 2020. The proposed policies in the PPS, 2024 would require municipalities to collaborate with publicly assisted post-secondary institutions on the development of a student housing strategy that includes consideration of off-campus housing targeted to students.^[34]

^[30] Proposed PPS, 2024, policy 2.5.2, p. 10.

^[31] A Place to Grow, Growth Plan for the Greater Golden Horseshoe, Office Consolidation, policy 2.2.9.5, p. 28.

^[32] Proposed PPS, 2024, policy 3.1, p. 16.

^[33] Proposed PPS, 2024, policy 2.1.3, p. 6.

^[34] Proposed PPS, 2024, policy 6.2.6, p. 35.



3. Summary Comments on the Proposed Amendments and the PPS, 2024

Watson will be providing a submission through the ERO on these legislative changes. We will continue to monitor the progress of Bill 185 through the legislature, including any guidance documents on implementation, and will continue to keep our clients informed of any changes. If you have any questions, please do not hesitate to contact us.

Yours very truly,

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