

Re-writing Ontario's planning policies – proposed Provincial Planning Statement 2023 and Bill 97

April 11, 2023

There has once again been a major shake-up to the planning regime in Ontario. On April 6, 2023, the Government of Ontario released the proposed Provincial Planning Statement 2023 (proposed PPS 2023), which integrates the Provincial Policy Statement 2020 (PPS 2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) into a singular, province-wide policy document. Comments on the proposed PPS 2023 can be provided until June 5, 2023 (see [ERO Posting](#)).

Alongside the proposed PPS 2023, the provincial government has tabled Bill 97, Helping Homebuyers, Protecting Tenants Act, 2023. The new bill contains relatively minor legislative changes to a number of Acts, which are also covered in this article. Comments on Bill 97 can be provided until May 6, 2023 (see [ERO Posting](#)).

The proposed PPS 2023 is intended to simplify existing policies and refocus them on achieving housing outcomes while giving large and fast-growing municipalities the tools they need to help deliver housing. At the same time, the proposed PPS 2023 recognizes that “one size does not fit all,” and generally provides a more flexible approach for municipalities to respond to individual market needs. The provincial government has set itself a clear target of encouraging the construction of 1.5 million homes by 2031 and the proposed PPS 2023 appears to have been created with that goal in mind.

This article will establish the key changes contained within the proposed PPS 2023 and Bill 97. A detailed analysis of the key changes will follow.

Key Changes in the proposed Provincial Planning Statement 2023

Housing

- Identifies “large and fast-growing municipalities” where growth must be directed to strategic growth areas;
- Removes mandatory intensification and density targets for all municipalities;

- Establishes broader permissions for residential intensification;
- **Expands the definition of “housing options”;**
- **Removes the definition of “affordable” as it applies to housing;** and
- Provides additional options for rural housing.

Settlement area expansion

- Removes the need for a municipal comprehensive review; and
- Reduces the requirements to permit a settlement area boundary expansion or identification of new settlement areas.

Employment protection and conversion

- Revises the definition of employment areas, to prohibit any commercial uses that are not associated with the primary employment use and institutional uses;
- Scopes and clarifies the test for employment conversion requests and removes the requirement for a municipal comprehensive review; and
- Does not carry forward the concept of Provincially Significant Employment Zones found in the Growth Plan to the proposed PPS 2023.

Schools

- **Establishes schools as an element of a “complete community” and collaboration between planning authorities and school boards is specifically directed;** and
- Recognizes innovative approaches in the design of schools, including schools located in high rise developments.

Land use compatibility

- Maintains current protections for existing or planned industrial and manufacturing uses or other major facilities;
- Removes requirement for proponent of sensitive land uses to demonstrate need or evaluate alternative locations for sensitive land uses where avoidance of adverse effects is not possible;
- Increases restrictions on uses permitted in employment areas; and
- Encourages industrial, manufacturing and small-scale manufacturing uses in strategic growth areas and other mixed-use areas where frequent transit service is available.

Natural heritage

- Natural heritage policies and related definitions remain under consideration by the government; and
- There are indications of relaxing environmental considerations in favour of balancing with increasing the housing supply.

Agriculture

- Eliminates alternative evaluations for settlement area expansions;

- Establishes potentially less protection for specialty crop areas;
- Eliminates the alternative evaluations for mineral aggregate extraction rehabilitation;
- Eliminates the requirement to use the provincially mapped Agricultural System; and
- Permits additional dwelling units and ground-extensive energy facilities.

Minister's additional powers

- Minister is allowed to make regulations and orders related to planning functions **that previously would solely have been directed by local municipalities**;
- Prohibits municipalities from enacting policies that are more restrictive than certain policies of the proposed PPS 2023 and establishes greater role for Ministerial Zoning Orders; and
- All municipal decisions, including zoning by-laws and permitting processes, must **be consistent with the proposed PPS 2023, even before a municipality's official plan has been updated**.

Bill 97 amendments

- Amends the definition of “area of employment”;
- Extends the deadline for “Bill 109 fee refund regime” to July 1, 2023; and
- Restores the right of appeal to the initial passing of an interim control by-law.

Detailed analysis of the proposed Provincial Planning Statement 2023

Housing

Identifies “large and fast-growing municipalities ” that must grow based on Growth Plan directions - The province has identified 29 municipalities that make up 80 per cent of Ontario’s current population and set housing targets for these municipalities to help the province reach its goal of constructing 1.5 million homes in the next 10 years (see [ERO Posting](#)). These “large and fast-growing municipalities” are required to identify and focus growth in strategic growth areas, including (1) identifying an appropriate minimum density target and type and scale of development in strategic growth areas and (2) planning to meet minimum density targets for major transit station areas (MTSAs) along higher order transit corridors (e.g. subways, light rail, bus rapid transit and rail) based on the density targets set out in the former Growth Plan.

Removes mandatory intensification and density targets for all municipalities - The Growth Plan required municipalities to meet specific intensification and density targets to accommodate forecasted growth. This requirement has been removed in the proposed PPS 2023, except for the density targets for MTSAs in large and fast-growing municipalities. Instead, municipalities are encouraged to establish density targets “as appropriate, based on local conditions.” Large and fast-growing municipalities are also encouraged, but not required, to plan for a minimum density target of 50 residents and

jobs per gross hectare. Although growth forecasts from the Growth Plan have not been carried forward into the proposed PPS 2023, the province has indicated that it still expects municipalities to continue the use of the 2051 forecasts provided by the province, at a minimum, and to apply higher forecasts as determined by the municipality.

Establishes broader permissions for residential intensification - The proposed PPS 2023 provides three specific examples of residential intensification, some of which are quite controversial approaches to provide housing, to facilitate future development: (1) the conversion of existing commercial and institutional buildings for residential use, (2) development and introduction of new housing options within previously developed areas, and (3) redevelopment that results in a net increase in residential units. Notably, the proposed PPS 2023 removed the qualification for residential intensification “where this can be accommodated” from the PPS 2020, which was used to restrict areas within a municipality where intensification should or should not occur.

Expands the definition of “housing options” - Municipalities are already required to provide for 15 years of designated and available residential land and a three-year supply of serviced land for an appropriate range and mix of “housing options”. The proposed PPS 2023 expands the definition of “housing options” to specifically include more examples of “soft intensification” and broader housing arrangements and forms.

Removes the definition of “affordable” - The PPS 2020 generally defined “affordable” as a function of income for ownership and rental housing. This definition has been removed in the proposed PPS 2023. This approach is consistent with the province’s proposed changes to the inclusionary zoning regulation (O. Reg. 232/18), which prescribes the lowest price/rent that can be required for inclusionary zoning units to 80 per cent of the average resale purchase price or average market rent (see [ERO posting](#)), as opposed to relying on an income-based approach.

Provides additional options for rural housing - The proposed PPS 2023 specifically permits multi-lot residential development on rural lands where appropriate sewage and water servicing can be provided and removes the justification test for when infrastructure is proposed to be expanded for rural development, providing greater flexibility for private servicing. Municipalities must consider “locally appropriate” rural characteristics when directing development in rural settlement areas. The proposed PPS 2023 also permits up to two additional residential units, in addition to the principal dwelling, in prime agricultural areas if certain conditions are met.

Settlement area expansion

Removes the need for a municipal comprehensive review - A cornerstone policy of the Growth Plan was to restrict the expansion of settlement areas to a municipal comprehensive review, in an effort to curb urban sprawl. The proposed PPS 2023 removes all references to a municipal comprehensive review and does not limit when a settlement area expansion may occur so long as the policy tests are met.

Reduces the requirements to permit a settlement area boundary expansion or identification of new settlement areas - In all other versions of the Growth Plan and PPS, a municipality must demonstrate that there were insufficient opportunities to accommodate the forecasted growth through intensification or on designated urban

lands, before expanding its settlement area boundaries or identifying new settlement areas. This “needs test” has been removed in the proposed PPS 2023. The proposed PPS 2023 also reduces the criteria that a municipality must consider before identifying a new settlement area or allowing a boundary expansion, focusing on whether there is sufficient capacity in infrastructure and public service facilities to support the expansion or new settlement area, and avoiding or minimizing impacts on agricultural land and operations.

Employment protection and conversion

The proposed PPS 2023 is a significant overhaul of the employment protection and conversion regime in Ontario. Overall, this policy change appears to be intended to promote mixed-use development where the mix of uses are compatible, and also to protect and preserve areas that contain largely industrial and manufacturing uses.

Revises the definition of employment areas, to prohibit any commercial uses that are not associated with the primary employment use and institutional uses – Currently the PPS 2020, and Growth Plan define employment area in a similar manner: “those 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”. This definition, and specifically the words “including, but not limited to” provided municipalities with some discretion about the types of uses that could be included in an employment area in an Official Plan. Of note, the definition specifically listed office uses.

The proposed PPS 2023 and the Planning Act significantly revise the definition of employment areas to prohibit institutional uses and commercial uses unless those commercial uses are associated with the primary employment use, which are **manufacturing uses, research and development uses and/or warehouse uses**. The Planning Act is correspondingly proposed to be amended to include a new definition of “area of employment” as follows:

“area of employment” means an area of land designated in an official plan for clusters of business and economic uses, those being uses that meet the following criteria:

1. The uses consist of business and economic uses, other than uses referred to in paragraph 2, including any of the following:
 - i. Manufacturing uses.
 - ii. Uses related to research and development in connection with manufacturing anything.
 - iii. Warehousing uses, including uses related to the movement of goods.
 - iv. Retail uses and office uses that are associated with uses mentioned in subparagraphs i to iii.
 - v. Facilities that are ancillary to the uses mentioned in subparagraphs i to iv.
 - vi. Any other prescribed business and economic uses.
2. The uses are not any of the following uses:
 - i. Institutional uses.
 - ii. Commercial uses, including retail and office uses not referred to in subparagraph 1 iv; (“zone d’emploi”)

In previous case law, the Ontario Land Tribunal (and its predecessors) had specifically avoided delving into the relative value of retail/commercial jobs versus industrial/manufacturing job. As such, retail and office uses could be included within an **employment area at the municipality's discretion**. The change to the definition of employment areas in the proposed PPS 2023 and the area of employment in the Planning Act draws a clear distinction: commercial uses, institutional uses and retail/office uses that are not associated with the primary employment use are prohibited in employment areas (see also 2.8.1.2 of the proposed Provincial Planning Statement).

Scopes and clarifies the test for employment conversion requests and removes the requirement for a municipal comprehensive review - The proposed amendments would also significantly revise the employment conversion regime in Ontario. Currently, employment conversions are governed by the PPS 2020, the Growth Plan, and the requirements of local municipalities.

Currently, the PPS 2020 requires planning authorities to protect and preserve employment areas for current and future uses and permits conversions within employment areas to non-employment uses only where it had been demonstrated that the land was not required for employment purposes over the long term and that there is a need for the conversion.

The Growth Plan requires that conversions of lands within employment areas may only be permitted through a municipal comprehensive review where the applicant had satisfied certain criteria, outlined in policy 2.2.5.9:

- a. there is a need for the conversion;
- b. the lands are not required over the horizon of this Plan for the employment purposes for which they are designated;
- c. the municipality will maintain sufficient employment lands to accommodate forecasted employment growth to the horizon of this Plan;
- d. the proposed uses would not adversely affect the overall viability of the employment area or the achievement of the minimum intensification and density targets in this Plan, as well as the other policies of this Plan; and
- e. there are existing or planned infrastructure and public service facilities to accommodate the proposed uses.

Conversions were permitted outside of a municipal comprehensive review pursuant to policy 2.2.5.10 subject to certain requirements, including maintaining a significant number of jobs on the lands. Municipalities were expected to review and update their official plans by July 1, 2022, which is five years after the Growth Plan, 2017 came into effect.

In the proposed PPS 2023, an employment conversion request can happen at any time. Applicants do not need to wait until a municipality is undertaking a municipal comprehensive review. Indeed, the requirement for municipalities to undertake **municipal comprehensive reviews has not been imported into the proposed PPS 2023**. Interestingly, the province still has not proposed appeal rights associated with an **authority's decision to approve or deny an employment conversion request**.

The new tests for conversion in the proposed PPS 2023 are relatively similar to those set out in the Growth Plan, with some exceptions:

Planning authorities may remove lands from employment areas only where it has been demonstrated that:

- a. there is an identified need for the removal and the land is not required for employment area uses over the long term;
- b. the proposed uses would not negatively impact the overall viability of the employment area by:
 1. avoiding, or where avoidance is not possible, minimizing and mitigating potential impacts to existing or planned employment area uses in accordance with policy 3.5; and
 2. maintaining access to major goods movement facilities and corridors; and
- c. existing or planned infrastructure and public service facilities are available to accommodate the proposed uses.

Given that the province is proposing to repeal the Growth Plan, the requirement to demonstrate the identified need for the removal of the land will no longer rely on the Growth Plan employment growth forecasts but will instead be reliant on employment targets set out in upper-tier or single-tier official plans. The province has also proposed to focus the test of “not negatively impact the overall viability of the employment area” to land use compatibility concerns and maintaining access to major goods facilities and corridors.

Of note, the province has proposed transition to the definition of employment area which essentially allows the continuation of commercial and institutional uses within an employment area so long as the use was legally established before the date that the Helping Homebuyers, Protecting Tenants Act, 2023 came into force and so long as the applicable official plan authorizes the continuation of the use.

Provincially Significant Employment Zones are not carried forward - Provincially Significant Employment Zones were introduced to the Growth Plan in 2019. A Provincially Significant Employment Zone (PSEZ) is an additional layer of protection beyond designation of an employment area in an official plan. Lands designated as PSEZ are protected from conversion to non-employment uses, except where demonstrated to be appropriate through a full municipal comprehensive review. Given the proposed repeal of the Growth Plan, the PSEZ regime will not likely continue under the proposed PPS 2023. In the province's proposed Approach to Implementation dated April 6, 2023 ([see here](#)), the province suggests selecting PSEZs or portions of PSEZs for inclusion in a Ministerial Zoning Order to protect those employment uses.

Schools

Establishes schools as an element of a “complete community” and collaboration between planning authorities and school boards is specifically directed - In the proposed PPS 2023, schools are part of what makes a “complete community”, a concept that was also central to the Growth Plan. The proposed PPS 2023 directs planning authorities to collaborate with school boards to ensure schools are planned for as part of development. This specific direction to municipalities and school boards to collaborate is new to the proposed PPS 2023, although it reflects what has long been designated as a matter of provincial interest in Section 2(m) of the Planning Act.

The proposed PPS 2023's vision statement specifically mentions that municipalities will work with the province to design complete communities with increased access to schools, among other infrastructure and services. Neither the PPS 2020 nor the Growth Plan mention schools in their introduction or vision statements, highlighting the importance of planning for schools as part of complete communities in this new proposed plan.

Recognizes innovative approaches in the design of schools, including schools located in high rise developments - The proposed PPS 2023 directs planning authorities to coordinate and consult with school boards, to consider and encourage innovative approaches in the design of schools and associated childcare facilities. The theme of coordinating planning activities with school boards emphasizes that such collaboration should “facilitate early and integrated planning for schools and associated childcare facilities to meet current and future needs.”

In addition, the proposed PPS 2023 acknowledges and encourages the use of non-traditional school locations where appropriate for the community. Schools located into high-rise developments are specifically mentioned as a form of innovative design that can be considered and encouraged for strategic growth areas and other areas with a compact built form. The specific reference to non-traditional schools will be welcomed by school boards in urban municipalities, who are at times required to accommodate increases in the school-age population in rapidly developing areas where land is at a premium.

Land use compatibility

Maintains current protections for existing or planned industrial and manufacturing uses or other major facilities - The proposed PPS 2023 enhances protections for industrial and manufacturing uses as well as other major facilities from encroachment of sensitive land uses while making subtle, but critical, revisions to the policy language. The proposed PPS 2023 removes the reference to “other uses that are vulnerable to encroachment” and limits the focus to industrial and manufacturing uses and other major facilities.

Removes requirement for proponent of sensitive land uses to demonstrate need or evaluate alternative locations for sensitive land uses where avoidance of adverse effects is not possible -The proposed PPS 2023 revises the test planning authorities must consider where it is not possible to avoid adverse effects from odour, noise and other contaminants. There is no longer a requirement for a proponent of a sensitive land use to demonstrate there is a “need” for the proposed use or to evaluate “alternative locations”. The proposed PPS 2023 also removes reference to adverse effects to the proposed sensitive land use being minimized and mitigated, revealing a greater focus on protecting the long-term viability of industrial and manufacturing uses, as well as major facilities.

Increases restrictions on uses permitted in employment areas -The proposed PPS 2023's approach to employment areas encourages industrial and manufacturing uses that do not give rise to potential adverse effects from odour, noise and other contaminants to be developed outside of employment areas in strategic growth areas and other mixed-use areas where frequent transit service is available. It also promotes the transition of uses in lands outside of employment areas to prevent adverse effects

on sensitive land uses. The proposed PPS 2023 expands the list of prohibited uses in employment areas from only residential uses to residential uses, commercial uses, public service facilities and other institutional uses, while maintaining permissions for other sensitive land uses that are ancillary to the primary employment use in order to maintain land use compatibility.

Natural heritage system

The natural heritage policies and related definitions remain under consideration by the government - Natural heritage policies will be provided via a separate posting on the Environmental Registry of Ontario. Under the existing regime, the PPS 2020 provides natural heritage protection policies and guidance. The Growth Plan establishes a “Natural Heritage System For the Growth Plan”, which supplements municipal natural heritage systems within settlement area boundaries. It remains to be seen if any of the existing natural heritage policies will be carried forward into the proposed PPS 2023.

There are indications of relaxing environmental considerations in favour of balancing with increasing the housing supply - The Vision statement in the proposed PPS 2023 reveals a shift in focus from conserving biodiversity and protecting essential ecological processes to one that balances the use and management of natural resources with attention to appropriate housing supply. The proposed PPS 2023 removes the current direction to maximize vegetation in settlement areas, where feasible, and to consider the mitigating effects of vegetation and green infrastructure.

Agriculture

Eliminates alternative evaluations for settlement area expansions - Under the PPS 2020, a proposed settlement area expansion into prime agricultural areas required an evaluation of alternative locations for expansion, with a determination that no reasonable alternatives exist (i) which avoid prime agricultural areas and (ii) on lower priority agricultural lands within the prime agricultural area, whether as part of a comprehensive review or outside such a review. 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 particular emphasis on prime agricultural lands or areas. The impact would be assessed through an agricultural impact assessment (a new defined term) based on provincial guidance.

Establishes potentially less protection for specialty crop areas - Under the PPS 2020, the settlement area expansion proponent had to “demonstrate” that the lands did not comprise specialty crop areas. Now, planning authorities “should consider” whether the applicable lands comprise specialty crop areas. The new “should consider” threshold also applies to the impact assessment noted above, and compliance with minimum distance separation formulae.

The foregoing weakening of the tests for expansion, and the previously discussed elimination of minimum density targets in areas outside strategic growth areas, may mean more consumption of prime agricultural land. This concern may be ameliorated by the retention elsewhere in the proposed PPS 2023 of a mandatory policy to designate and protect prime agricultural areas, including specialty crop areas, for long-term use for

agriculture, and mandatory compliance with minimum distance separation formulae in the creation of new lots and establishing new uses.

Eliminates the alternative evaluations for mineral aggregate extraction rehabilitation -

Under the PPS 2020, part of the test for complete rehabilitation of prime agricultural lands was consideration of extraction on alternative lands. This evaluation requirement has been eliminated, while a simplified feasibility test is retained for restoration and rehabilitation.

Eliminates the requirement to use the provincially-mapped Agricultural System -

Municipalities would now lead the designation of prime agricultural areas, including specialty crop areas. Using the provincial mapping remains an option, as the definition of “Agricultural System” includes identification of an agricultural land base “based on mapping provided by the province where mapping is available and requested”. Similar optionality appears in the definition of “Prime Agricultural Area”: such areas may be identified by the province or a planning authority based on provincial guidance.

Permits additional dwelling units and ground-extensive energy facilities - In addition to a principal dwelling associated with an agricultural operation in prime agricultural areas, up to two additional residential units may be permitted as subordinate to the principal dwelling. A new policy also permits the creation of up to three residential lots from an existing agricultural parcel. The definition of “on-farm diversified uses”, permitted on prime agricultural lands, has been broadened to include all “land-extensive energy facilities”, such as ground-mounted solar or battery storage, whereas previously only ground-mounted solar facilities were identified.

Minister’s additional powers

In both Bill 97 and the new proposed PPS 2023, the Minister takes on a more direct and involved role in the planning process.

The Minister is allowed to make Regulations and orders related to planning functions that previously would solely have been directed by local municipalities - Bill 97 gives the Minister several new powers which allow him to directly intervene in certain planning functions. Both the City of Toronto Act and the Municipal Act, 2001 are amended through Bill 97 to provide the Minister with authority to make wide-ranging regulations which govern municipal powers. These regulations can:

- impose restrictions, limits, and conditions on the powers of municipalities to regulate the demolition and conversion of residential rental properties;
- prescribe requirements to be contained in by-laws;
- prescribe conditions that must be included as requirements for obtaining a permit; and
- prescribe requirements the municipality must impose on owners of land.

One regulation under the Planning Act and the City of Toronto Act has already been posted on the ERO for comment. This regulation would prescribe areas where site plan control could apply to developments containing 10 or fewer residential units, specifically, within 120 metres of a shoreline and within 400 metres of a railway line.

Changes to the Ministry of Municipal Affairs and Housing Act now allow the Minister to appoint up to four Deputy Facilitators, along with the Provincial Land and Development Facilitator, to advise and make recommendations to the Minister in respect of growth, land use and other matters, including Provincial interests. Once the Minister has appointed the Provincial Land and Development Facilitator or a Deputy Facilitator to advise, make recommendations, or perform any other functions with respect to land, he may access new powers granted pursuant to the Planning Act. The Minister may require **landowners to enter agreements with the Minister or a municipality concerning “any** matters that the Minister considers necessary for the appropriate development of the land” (Section 49.2(1)). **Landowners are restricted in terms of using their land or erecting** new buildings or structures until they enter all agreements required by the order (Section 49.2(3)).

The Planning Act is also amended to allow the Minister to make regulations for transitional matters related to policy statements issued under subsection 3(1). Further, the Minister may now make orders under subsection 47(1)(a) of the Act to provide that policy statements, provincial plans, and official plans do not apply in respect of a license, permit, approval, or permission that is required before a use permitted by the order may be established.

Prohibits municipalities from enacting policies that are more restrictive than certain policies of the proposed PPS 2023 and establishes greater role for Ministerial Zoning Orders - Several new policies in the proposed PPS 2023 prohibit municipalities from planning in a more restrictive manner than as set out by the province. For example, when planning for employment lands outside of employment areas, municipalities are not permitted to enact provisions in official plans or by-laws that are more restrictive than Policy 2.8.1.3, except for the purposes of public health and safety. Policy 4.3.3.2 similarly restricts municipalities from enacting provisions governing residential lots in prime agricultural areas that are more restrictive than those set out in 4.3.3.1(a), except to address public health or safety concerns.

The proposed PPS 2023 also provides for increased involvement of the Minister in the planning process. One example is the inclusion of a reference to Ministerial Zoning Orders (MZO) in the proposed PPS 2023 for the first time. However, the proposed PPS now states that when an MZO is in place, the resulting development potential shall be in addition to the projected needs over the planning horizon established in the official plan. **Further, the additional growth shall be incorporated into the municipality’s next official plan update.**

All municipal decisions, including zoning by-laws and permitting processes, must be consistent with the proposed PPS 2023, even before a municipality’s official plan has been updated - The Implementation and Interpretation policies of the proposed PPS 2023 emphasize the ability of the Minister to set planning priorities and require municipalities to abide by these directions. Policy 6.1.4 states that the Minister can take into account other government priorities when implementing the proposed PPS. Policies 6.1.6 and 6.1.7 require municipalities to keep their zoning and development permit by-laws up to date with not only their official plans but the proposed PPS 2023, and to make planning decisions consistent with the proposed PPS 2023 even before their official plans or other planning instruments have been updated. These specific requirements and directives were not previously found in the PPS 2020 or the Growth Plan.

Bill 97 amendments

Amends the definition of “area of employment” - The definition of “area of employment” would be amended, as discussed elsewhere in this bulletin (as would the definition of “employment area” in the proposed PPS). Certain transition provisions apply in respect of areas containing parcels with uses now excluded, being institutional and certain commercial uses.

Extends the deadline for “Bill 109 fee refund regime” to July 1, 2023 - The deadline for the “Bill 109 fee refund regime” applicable to zoning by-law and site plan approval applications is formally shifted to July 1, 2023 from Jan. 1, 2023 as was anticipated earlier this year in correspondence from the Minister to municipalities. The refund regime now applies to applications received on or after July 1, 2023, unless the application is in a municipality prescribed by the Minister not to be subject to the refund regime. Any refunds triggered under the previous Jan. 1, 2023 regime are deemed never to have been required.

Restores the right of appeal to the initial passing of an interim control by-law - Bill 97 proposes to restore the right to appeal the initial passing of an interim control by-law, in addition to the extension thereof. The requirement to give notice of the adoption of an interim control by-law is reduced to 20 days (from 30), and the appeal deadline is 50 days after the date of passing of the by-law. Transition would apply.

By

[Isaac Tang](#), [Pitman Patterson](#), [Piper Morley](#), [Lee English](#), [Julie Lesage](#), [Brett Davis](#)

Expertise

[Municipal & Land Use Planning](#), [Commercial Real Estate](#), [Expropriation](#), [Environmental](#)

BLG | Canada’s Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3
T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9
T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2
T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.