

City of Oshawa Staff Comments on Bill 97 (E.R.O. Posting Number 019-6821)

	Description	Staff Comments
1.	<p>Site Plan Control</p> <ul style="list-style-type: none"> - Under Bill 23, if a development had less than 10 units, they would be excluded from site plan control. Bill 97 proposes to amend this by allowing site plan control to be applied to developments of less than 10 units where the development is within 120 metres of a shoreline or 300 metres of a railway line. 	<ul style="list-style-type: none"> ▪ Staff note that permitting site plan control to be applied to developments of less than 10 units where the development is proposed within 120 metres of a shoreline or 300 metres of a railway line makes sense in principle. However, it is unclear as to why only these two exceptions were made given that there are other types of conditions/contexts where proximity to feature would also seem to merit site plan review (e.g. proximity to highways, arterial roads or hazard lands).

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2.	<p>Area of Employment</p> <ul style="list-style-type: none"> - The definition of employment area is proposed to be narrowed. The current definition defines an area of employment as lands designated in an official plan for clusters of business and economic uses including (but not limited to) manufacturing uses, warehousing uses, office uses, associated retail uses and ancillary facilities. Bill 97 proposes to exclude institutional uses and commercial uses which include retail and office uses not associated with primary industrial uses. This exclusion will mean that sites that are currently designated as an 'area of employment' in an official plan may no longer be identified as employment and no longer be subject to the employment area policies, particularly those pertaining to employment conversions. - In addition, a new section is being proposed to the Planning Act that states that an area of employment with institutional or non-associated commercial uses would be deemed an area of employment provided the following two conditions are met: <ul style="list-style-type: none"> 1. The lands in question are subject to official plan policies authorizing the continuation of the use; and, 2. The use was lawfully established on the land before the day the Bill 97 modified area of employment definition came into force. 	<ul style="list-style-type: none"> ▪ Staff note that if Bill 97 is passed the scope of what constitutes an 'area of employment' would be narrowed. <p>The proposed addition of a new section in the Planning Act as it relates to what can be deemed an area of employment appears to allow municipalities to maintain the status quo, provided it adopts official plan policies that specifically authorize the continuation of institutional and non-employment related commercial uses that lawfully existed prior to the modified area of employment definition coming into effect.</p>
3.	<p>Interim Control By-laws</p> <ul style="list-style-type: none"> - Section 38 of the Planning Act allows a municipality to pass an interim control by-law. Prior to 2017, interim control by-laws were appealable within 60 days of passage. This appeal right was removed through Bill 139 which only allowed private appeals of the renewal of the interim control by-law but limited appeals within the first year of the interim control by-law to only the Province. - If the proposed changes are passed, it will shorten the period of time within which the Clerk of a municipality is required to give notice of an interim control by-law (from 30 days to 20 days) and to enable an individual who received notice of the passing of an interim control by-law to file an appeal at the time of initial passing. 	<ul style="list-style-type: none"> ▪ Staff note that if Bill 97 is passed, an appeal can be made at the time of passing an interim control by-law versus at the time of extension.

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4.	<p>Minister's Zoning Orders</p> <ul style="list-style-type: none"> - Bill 97 proposes to provide the Province with the authority to exempt certain subsequent approvals required to establish uses permitted by Minister's zoning orders from having to align with provincial plans or policies. 	<ul style="list-style-type: none"> ▪ Staff note that if Bill 97 is passed, this will provide additional powers to the Province as zoning orders will not have to align with provincial plans or policies. This would undermine the intent of Provincial plans and policies and does not constitute a good planning practice.
5.	<p>Fee Refund Provisions</p> <ul style="list-style-type: none"> - The Planning Act was previously amended to introduce a requirement that municipalities must refund an application fee if the municipality fails to meet statutory deadlines for decisions on zoning by-law amendment applications, combined zoning-by-law/official plan amendment applications and site plan approval applications. These refund requirements came into force on January 1, 2023. - Under Bill 97, it is proposed that the refund provisions will be delayed until July 1, 2023. In addition, any refund that would have been owing for applications filed before July 1, 2023 are cancelled. In addition, it is proposed that the Minister would have regulation-making authority to be able to exempt certain municipalities from the fee refund provisions in the future if needed (no exemptions are being proposed at this time). 	<ul style="list-style-type: none"> ▪ Staff note that these refunds were anticipated and that only the timeline for implementation has been adjusted.