

Official Plan Amendment for Bill 97 Transition - Authorizing the Continuation of Institutional and Commercial Uses in Employment Areas – Final Report

Date: June 19, 2023

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

On April 6, 2023, the Province introduced new policy and legislative changes which include two key components: (1) *Helping Homebuyers, Protecting Tenants Act*, an Act to amend various statutes with respect to housing and development ("Bill 97"), and (2) the proposed Provincial Planning Statement ("PPS 2023"). Bill 97 received Royal Assent on June 8, 2023.

This is the first of two reports that respond to the *Planning Act* changes within Bill 97 and Official Plan Amendments required to implement these changes. This report responds to the transition provisions introduced in the new *Planning Act* subsections related to "areas of employment", while the second report is related to the revised *Planning Act* definition for "area of employment". The second report is targeted for Planning and Housing Committee in the Fall 2023.

The new definition for "area of employment" will come into force on a day to be named by proclamation of the Lieutenant Governor. It is staff's understanding that the Province will bring these *Planning Act* changes into force on the same date that the PPS 2023 comes into effect. It is anticipated that these changes will take effect in Fall 2023. This report recommends that Council request that the Province delay the date the PPS 2023 comes into effect until January 1, 2024 (at the earliest), to provide the City with sufficient time to make the necessary Official Plan amendments.

Bill 97 amends the definition of "area of employment" to expressly exclude institutional uses and commercial uses, including retail and office uses that are not associated with manufacturing, research and development in connection with manufacturing, warehousing, and goods movement.

The proposed exclusion of uses in the revised *Planning Act* definition would have significant implications for much of the City's *General Employment Areas* and *Core Employment Areas*, in particular:

- It is estimated that the revised definition has the potential to remove approximately 25% of the City's *General Employment Areas* (including office parks) and risk approximately 150,000 jobs currently located in these areas through future land use change.
- Many of the parcels of land with uses that would be excluded from the definition are located in *General Employment Areas*, which often act as a buffer between sensitive land uses (i.e., residential, institutional, etc.), and *Core Employment Areas*, which often include heavier industrial uses. A buffer between these uses helps to ensure that adverse effects are avoided due to land use incompatibility and that *Core Employment Areas* remain economically viable.

The *Planning Act* changes provide a transition provision that would authorize municipalities to implement Official Plan policies that would permit the continuation of uses excluded by paragraph 2 of the new definition (commercial and institutional uses), in *Employment Areas*, so long as the use was lawfully established before the definition came into force. Implementing such Official Plan policies would ensure that parcels of land with uses not included in the new definition can continue to be deemed as an "area of employment" and, as such, would remain subject to employment area conversion policies.

This report recommends that Council adopt Official Plan Amendment 668 to authorize the continuation of institutional and commercial uses expressly excluded by paragraph 2 of the new definition that were lawfully established the day before the relevant Planning Act changes comes into effect.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning recommends that:

1. City Council adopt Official Plan Amendment 668 in accordance with Attachment 1 to the report from the Chief Planner and Executive Director, City Planning (dated June 19, 2023).
2. City Council authorize the City Solicitor to submit the necessary Bills to City Council for enactment upon subsection 1(1) of the *Planning Act*, as set out in Bill 97, coming into effect.
3. City Council authorize the City Solicitor to make such stylistic and technical changes to the proposed Official Plan Amendment 668 as may be required.
4. City Council request that the Ministry of Municipal Affairs and Housing delay the effective date of the Provincial Planning Statement until January 1, 2024 at the earliest.

FINANCIAL IMPACT

There are no financial impacts arising from adoption of the recommendations in this report. The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications as identified in the Financial Impact Section.

DECISION HISTORY

Comments on the proposed Provincial Planning Statement

Council adopted a report at its meeting on June 14, 2023, which summarized the policy changes in the proposed Provincial Planning Statement and identified the City's concerns and recommendations.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH4.8>

Additional Uses in Employment Areas

On April 27, 2022, Planning and Housing Committee received for information an updated work plan for the zoning conformity exercise. The process provides for further consideration of permissions for bingo halls, banquet halls, places of assembly, and places of worship on lands designated *General Employment Areas* and *Core Employment Areas* as requested by Council in November of 2021.

<https://secure.toronto.ca/council/agenda-item.do?item=2022.PH33.14> Staff have initiated this study and will incorporate the necessary Planning Act changes with the Council's direction for this policy review. www.toronto.ca/employmentuses

COMMENTS

On April 6, 2023, the *Helping Homebuyers, Protecting Tenants Act* ("Bill 97") was introduced to the legislature that would make changes to statutes including the *Planning Act*, *Municipal Act*, *Residential Tenancies Act* and the *Building Code Act*. The Province also released the proposed Provincial Planning Statement (PPS 2023) that would combine the current Provincial Policy Statement (2020) and the Growth Plan (2020) into a single document. Bill 97 received Royal Assent on June 8, 2023. The Minister has also extended the timeline for comments on the PPS 2023 to August 4, 2023.

Previous "Area of Employment" Definition

Prior to the Province introducing the *Planning Act* changes, the "area of employment" definition in subsection 1 (1) and (5) was:

(1) An area of land designated in an official plan for clusters of business and economic uses including, without limitation, the uses in subsection (5), or as otherwise prescribed by regulation.

(5) The uses referred to in the definition of "area of employment" in subsection (1) are:

- a. manufacturing uses;
- b. warehousing uses;
- c. office uses;
- d. retail uses that are associated with uses mentioned in clauses (a) to (c); and
- e. facilities that are ancillary to uses mentioned in clauses (a) to (d).

Revised "Area of Employment" Definition

Bill 97 revises the *Planning Act* definition of "area of employment" by expressly excluding institutional uses and commercial uses, which includes retail and offices uses that are not associated with manufacturing, research and development, warehousing and goods movement:

1(1) "area of employment" means an area of land designated in an official plan for clusters of business and economic uses 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 in subparagraphs i to iii.
- v. Facilities that are ancillary to the uses in subparagraphs i to iv.
- vi. Any other prescribed business and economic uses.

2. The uses are not any of the following:

- i. Institutional uses.
- ii. Commercial uses, including retail and office uses not referred to in subparagraph 1 iv.

The staff report targeted for Fall 2023 will recommend Official Plan amendments that update the permitted uses in *Core Employment Areas* and *General Employment Areas* to correspond with the revised definition.

Planning Act Transition Provision

The new *Planning Act* subsection 1 (1.1) and (1.2), as set out in Bill 97, introduces a transition provision for uses that would be excluded by paragraph 2 of the revised definition (commercial and institutional uses). This transition provision allows municipalities to put in place Official Plan policies that authorize the continuation of the uses that are excluded from being a business or economic use under the revised definition (institutional and commercial uses as set out in paragraph 2), so long as the use was lawfully established before the revised definition came into force. Without such Official Plan policies, parcels of land with these excluded uses would no longer be deemed to be in an "area of employment" under the *Planning Act*.

Recommended Official Plan Amendment 668 (OPA 668)

The recommended OPA 668 authorizes the continuation of commercial and institutional uses in *Core Employment Areas* and *General Employment Areas*, so long as the uses were lawfully established on the parcel of land the day before the definition of "areas of employment" under subsection 1 (1) of Bill 97 comes into force.

OPA 668 is intended to ensure that any development applications to remove (or convert) lands designated *Core Employment Areas* or *General Employment Areas* to non-employment uses would still be subject to the Official Plan policies respecting the conversion of these lands.

The timely implementation of OPA 668 is necessary to ensure the integrity of the City's *Core Employment Areas* and *General Employment Areas* is maintained. Staff scheduled a consultation Open House on June 21, 2023 to discuss OPA 668 with interested stakeholders and members of the public. Should any critical information be shared at the Open House, staff will report directly to the July 5, 2023 Planning and Housing Committee meeting.

Conclusion and Next Steps

OPA 668 is intended to help maintain the integrity of the City's *Core Employment Areas* and *General Employment Areas* by ensuring that:

- Toronto has land available for employment uses that cannot be located elsewhere and remains an attractive location for business investments;
- The employers and jobs located within *Core Employment Areas* and *General Employment Areas* are protected from land speculation;
- Businesses have convenient access to the materials and services they need for their operations; and
- Adverse impacts to sensitive uses and major facilities are avoided through separation and distance.

In Fall 2023, Staff will report to Committee and Council on necessary changes to the Official Plan land use designations to correspond with the revised *Planning Act* definition of "area of employment". Throughout the summer, staff will conduct engagement with stakeholders, businesses and members of the public.

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SIGNATURE

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Chief Planner and Executive Director
City Planning

ATTACHMENTS

Attachment 1: Draft Official Plan Amendment 668

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DRAFT AMENDMENT NO. 668 TO THE OFFICIAL PLAN

The Official Plan of the City of Toronto is amended as follows:

Chapter 4 Land Use Designations, 4.6 Employment Areas is amended by adding new Policies 4.6.1.1 (*Core Employment Areas*) and 4.6.3.1 (*General Employment Areas*) as follows:

Continuation of Permitted Use (*Core Employment Areas*)

4.6.1.1. Pursuant to subsections 1 (1.1) and (1.2) of the *Planning Act*, uses in *Core Employment Areas* that are excluded from the definition of "area of employment" in paragraph 2 of Subsection 1(1) of the *Planning Act*, are authorized to continue so long as the use has been lawfully established on the parcel of land before **[Month, Day, Year¹]**.

¹ Day before subsection 1 (1) of Schedule 6 to the *Helping Homebuyers, Protecting Tenants Act, 2023* came into force

Continuation of Permitted Use (*General Employment Areas*)

4.6.3.1. Pursuant to subsections 1 (1.1) and (1.2) of the *Planning Act*, uses in *General Employment Areas* that are excluded from the definition of "area of employment" in paragraph 2 of Subsection 1(1) of the *Planning Act*, are authorized to continue so long as the use has been lawfully established on the parcel of land before **[Month Day, Year¹]**.

¹ Day before subsection 1 (1) of Schedule 6 to the *Helping Homebuyers, Protecting Tenants Act, 2023* came into force