SUBJECT: Report to Final Places to Grow Plan (PD04243(b)) (City Wide)

RECOMMENDATION:

a) That the City of Hamilton commends the Province of Ontario for its positive response to issues in the Places to Grow Plan and its commitment to maintaining a proactive working relationship with single and upper tier municipalities in future.

b) That municipal Official Plan and Zoning By-law amendments necessary to address Section 12.2 of the Places to Grow Act be exempted from appeal, or that current powers of the Ontario Municipal Board (OMB) to dismiss appeals be used more proactively in matters of Places to Grow Plan conformity.

c) That Sub Area assessment studies utilize available information from municipalities on natural heritage and prime agricultural land issues so as to reinforce, not duplicate appropriate municipal practice.

d) That Sub Area Assessment studies and future policy development must place greater emphasis on employment land planning and economic development strategies to reinforce the broader objectives of the Places to Grow Plan.

e) That the Province of Ontario bring forward major reforms to Environmental Assessment procedure, environmental management policies (e.g., D Series Guidelines of Ministry of the Environment), Provincial capital and program planning procedures and municipal financing tools which are required to achieve the objectives of the Places to Grow Plan.

f) That the Minister of Public Infrastructure Renewal amend the draft Places to Grow Plan to include changes to the text of the Plan outlined in Appendix “A” to Report PD04243(b) so as to improve opportunities for municipal councils to reliably and consistently administer the objectives of the Plan.
g) That prior to final approval of the Places to Grow Plan the Minister of Public Infrastructure Renewal issue draft transition regulations as provided for by Section 17 of the *Places to Grow Act* which ensures:

i) Municipalities which commenced growth and infrastructure planning programs prior to the Places to Grow initiative are exempted from its requirements or permitted to complete those programs in a manner that ‘has regard to’, rather than ‘in conformity with’ the Places to Grow Plan;

ii) The approval of all applications made under the *Planning Act* and municipal undertakings pursuant to *Environmental Assessment Act* which predated the issuance of the final draft of the Places to Grow Plan be exempt; and,

iii) That implementation of the Plan should not occur until:

1) municipalities are given the financial tools (i.e., reforms to *Development Charges Act, Municipal Act*): and,

2) the Province has enacted legislation to amend the *Planning Act* and *Environmental Assessment Act*

iv) That all local Boards, Conservation Authorities, Provincial agencies and Ministries are directed to not amend or withhold statutory approvals on the basis of the Places to Grow Plan in respect to the matters included by clauses i) and ii).

h) That the Association of Municipalities of Ontario be requested to consider the formation of a special task force of Greater Golden Horseshoe municipalities to engage the Province of Ontario in legislative and Provincial policy reforms that are considered essential for municipalities to implement the Places to Grow Plan.

_____________________________________________________

Lee Ann Coveyduck  
General Manager  
Planning and Economic Development Department

**EXECUTIVE SUMMARY:**

This is the last opportunity for input to the Places to Grow Plan before it goes into effect by March or April 2006. Thereafter, all of Council’s land use and infrastructure planning decisions must conform, notwithstanding current City policy and practices to the contrary.
The final draft of the Places to Grow Plan provides much better direction on the Province’s objectives, standards and future role in strategic planning for Central Ontario. It has responded to earlier municipal comment by clarifying its intent and focusing on Provincially significant requirements. Council now has a clearer basis for responding to specific issues. For ease of reference, Appendix “B” to Report PD04243(b) contains a synopsis of the final draft Places to Grow (hereafter P2G) Plan key policy content.

The P2G Plan holds the promise of contributing significantly to the City of Hamilton’s long term growth objectives. The Province should be congratulated for the many improvements which have been made to the draft document.

Nevertheless, there remain a number of important issues and uncertainties which this report recommends be addressed. To ensure Council’s final contributions on the P2G Plan are useful to the Province, Report PD04243(b) contains recommendations on general strategic issues as well as proposals for specific wording changes. Appendix “A” to Report PD04243(b) outlines specific recommendations on ‘wording’ issues that are intended to improve the ability of municipalities to implement the P2G Plan in future.

This report also reiterates and expands on previous comments pertaining to strategic issues that are considered essential for Provincial administration of the P2G Plan so as to reinforce municipal efforts.

Several weeks after release of the P2G Plan, the Province introduced the Planning Act and Ontario Municipal Board (OMB) reform proposals (Bill 51). Changes to these Acts go a long way toward addressing some of these municipal concerns; particularly by restricting OMB appeals to accessory apartments, urban boundary expansions and removing lands from employment areas. A further report responding to the specifics of these Bill 51 proposals will be forthcoming to Council shortly.

**BACKGROUND:**

The Ministry of Public Infrastructure Renewal has issued a final draft of the P2G Plan for municipal and public comment by January 27, 2006. The statute which supports this Plan was previously enacted by the Legislature on June 13, 2005. Council endorsed two (2) previous reports on this matter in September 2004 and March 2005.

The Places to Grow Act gives Council three (3) years to bring the City’s Official Plan (OP) into conformity (i.e., a deadline of Spring 2009). Like the Greenbelt Plan, the P2G Plan will over-ride existing City policies and by-laws governing urban growth, community planning and infrastructure strategies. It will set in motion a new pattern of planning practice which involves specific direction and intervention by the Province in certain land use and infrastructure planning matters. It also establishes municipal performance requirements to which councils will be accountable in future. The discretion which Council, all local Boards, Conservation Authorities, the OMB, Provincial Ministries and Crown agencies now hold in these matters will be removed.

The P2G Plan promises to deliver supportive growth policies of great significance to the City’s future. The City of Hamilton faces a significant infrastructure investment deficit,
serious distortions in its jobs-to-population growth performance and some of the most challenging urban and infrastructure planning conditions in all of Ontario. The community’s aspirations for a vibrant and sustainable future will require the City’s long term commitment to new growth policies and infrastructure programs. It also requires the intervention of senior governments and the coordinated actions of surrounding municipalities to guarantee success.

Council has anticipated many of these challenges in the scheduling and design of the GRIDS Program. To the extent that staff has been able to anticipate P2G Plan content, studies are already underway to address most of its requirements. However, the final P2G Plan raises some new issues and changes direction on some others. These will necessitate further adjustments to City growth policy, Official Plan (OP) and Infrastructure Master Plans content in future.

The immediate impacts which the P2G Plan will have on municipal decision-making can not be assessed without knowledge of the transition regulations provided for by the Places to Grow Act. These regulations will determine the extent of ‘breathing room’ which municipalities will be given to migrate current planning practices into those mandated by P2G policies.

While the scope and direction of Provincial intentions have been ‘firmed up’ with the final draft Plan a significant gap in our knowledge remains. The feasibility of the P2G Plan to reinforce municipal actions can not be assessed without understanding a 30 Year Transportation Strategy for Central Ontario, still under development by the Ministry of Transportation. This was also a concern to Council in responding to the last draft of the P2G Plan and is unlikely to be addressed before the January 27th deadline. The Places to Grow statute does not require public notice or input before these outstanding Provincial documents take effect.

This report focuses on improvements considered necessary to make the Plan effective for the City of Hamilton, rather than to debate policy principles or a lack of key information.

**ANALYSIS/RATIONALE:**

The final draft P2G Plan retains the basic direction of proposed Provincial policy governing urban development and infrastructure in Central Ontario. The document is now structured in a similar format to the Greenbelt Plan and can generally be interpreted in a similar way to municipal Official Plans.

A. **Response to Previous Municipal Input**

A number of Council’s previous comments have been taken into account by the recent draft P2G Plan:

a) The Plan’s urban intensification policies have been significantly clarified;
b) The Plan commits the Province to a long term working relationship with single and upper tier municipalities in completing future background studies and developing more detailed policy on Provincially significant planning and infrastructure issues;

c) The scope of future studies to be undertaken after the P2G Plan’s final approval in order to detail a number of complex planning and infrastructure issues has been significantly reduced and refocused;

d) Greater flexibility has been created for scoping the content and physical area of future Sub Area planning rather than the ‘one size fits all’ approach to Sub Area planning originally proposed;

e) The City of Hamilton is no longer required to participate in two separate Sub Area planning programs and is tentatively linked to the GTA’s Sub Area group as Council requested.

While other issues of concern to Council in the last draft of the P2G Plan have not been fully addressed, it is evident the Province has responded to many key points and continues to demonstrate a willingness to work with municipalities of the Greater Golden Horseshoe to proactively achieve the best outcomes for all. Report PD04243(b) recommends the Province be commended for these efforts.

Recommendation:

That the City of Hamilton commends the Province of Ontario for its positive response to issues in the Places to Grow Plan and commitment to maintaining a proactive working relationship with single and upper tier municipalities in future.

B. Official Plan Conformity

Section 12.2 of the Places to Grow Act requires that municipal Official Plans be brought into conformity within three (3) years. A similar Official Plan conformity requirement was applied in respect to the Oak Ridges Moraine Plan and the Greenbelt Plan. In addition, the final P2G Plan proposes Sub Area Assessment (SAA) studies that will require continuing participation and input from municipal Councils and staff during the three (3) year period for OP conformity. Three years is an extremely ambitious timeframe, given the scope and magnitude of reforms which the P2G Plan anticipates for long-standing municipal policies and capital infrastructure practices. While the City of Hamilton has somewhat of a ‘head start’ in these matters, it may be a struggle for other municipalities.

Once a municipal Council adopts its OP amendments to achieve conformity with the P2G Plan, it still faces the prospect of defending those amendments against appeals to the OMB. As municipalities affected by the Oak Ridges Moraine Plan discovered many appeals can be anticipated which are merely launched to challenge mandatory Provincial Plan requirements that Council and the OMB have little discretion to resolve. The time and resources required to deal with such appeals is largely wasted as the appeal process may be giving false hope to the public.
Through the first reading of Bill 51, the Province has introduced amendments to the Planning Act, to address some of these policy implementation concerns. They include:

- No appeals to OPs, OPAs and Zoning By-laws applying to accessory dwelling units; and,
- Restrictions on appeals for changes to employment lands.

While the Province is providing some stronger powers regarding appeals, future OP amendments related to intensification, for example, may continue to be problematic. Therefore, the Province and OMB are strongly urged to further eliminate appeal opportunities or use existing powers to proactively dismiss appeals over all OP and Zoning By-law amendments which are undertaken for P2G Plan conformity purposes.

Recommendation:

That municipal Official Plan and Zoning By-law amendments necessary to address Section 12.2 of the Places to Grow Act be exempted from appeal, or that current powers of the OMB to dismiss appeals be used more proactively in matters of P2G Plan conformity.

C. Sub Area Assessment (SAA) Studies

The previous version of the P2G Plan called for a Provincial ‘secondary plan’ to be undertaken for five (5) pre-defined zones in the Greater Golden Horseshoe. These plans will develop additional growth policies and technical requirements on a wide range of issues of municipal and Provincial interest. The City of Hamilton was required to be a participant in two (2) Sub Area projects. This proposal was a major concern to City Council in its March 2005 response (see Report PD04243(a)).

The final P2G Plan has refined that approach. The new version has significantly reduced the scope of work and eliminated the inference that another layer of Provincial plans will result. It is now proposed that SAAs be more flexible in geographic scope and technical content to reflect planning and policy conditions in different Sub Areas. The City of Hamilton is tentatively identified as a member of the GTA Sub Area only. Further, Sub Area assessments will only produce ‘detailing’ amendments to the P2G Plan and specific municipal Official Plans where required to suit specific Provincial interests.

On a positive note, Sub Area assessments now target a Provincial level evaluation of employment lands and land development issues to establish priority actions and define specific areas for the long-term economic development. This refinement of the Sub Area assessment is of immense importance to municipalities in the P2G planning area and the City of Hamilton in particular. In comparison with other countries, Provincial policies and municipal planning practice governing employment land planning have been generally weak and uncoordinated for many years.

This is an area where Sub Area assessments could deliver real value added to the City’s planning and employment growth efforts. Planning staff in other GTA
municipalities share this view as global trends in regional scale business and employment development now overshadow local efforts. Report PD04243(b) recommends that Sub Area assessments place greater priority on employment land analysis and defining Provincial scale economic development initiatives which are necessary to reinforce the objectives of sustainable community planning in Ontario.

While these revisions are significant and welcomed, a few outstanding concerns remain. Specifically, the P2G Plan continues to anticipate another comprehensive study and policy process for natural environment areas and prime agricultural lands of each Sub Area. As staff has worked on the Official Plan amendment for the rural areas of the City to conform to the Greenbelt Plan its concerns with this approach have become more evident.

Planning for important natural areas and prime agricultural land has been a central function of municipal efforts in rural planning for over 15 years. While there are a number of municipalities that have not fully addressed basic Provincial Policy Statement requirements in these topics (including most of the City's former municipalities), most Ontario municipalities have or are in the process of doing so. The City (through the former Region) has extensive information and detailed planning standards for natural heritage areas already. The City has recently completed a comprehensive evaluation of prime agricultural lands through the LEAR Study.

To implement the Greenbelt Plan the Province has recently produced its own version of natural heritage and prime/specialty crop agricultural land mapping which differs from local research and planning efforts. The differences primarily reflect small variations in technical standards and a lack of detailed, site-specific knowledge by the Province that is equivalent to local efforts. In the case of agricultural land, the differences also reflect a less precise scale of analysis (the City’s work is very detailed while the Province's work highly generalized).

Whatever the merits of independent Provincial studies may be, they represent a direct duplication of effort in many Greater Golden Horseshoe municipalities which staff would regard as delivering little value-added to Provincial or local planning interests.

Report PD04243(b) recommends further revisions to the P2G Plan that clarify Sub Area assessment studies on natural heritage and agricultural land mapping which will only serve to reinforce, not replace or conflict with established municipal planning.

Recommendations:

1. That Sub Area assessment studies utilize available information from municipalities on natural heritage and prime agricultural land issues so as to reinforce, not duplicate appropriate municipal practice.

2. That Sub Area assessment studies and policy development efforts must place greater emphasis on employment land planning and economic development strategies to reinforce the broader objectives of the P2G Plan.
D. Provincial Implementation Reforms

One of the prominent issues raised by City Council in its last response on the draft P2G Plan was to call for more significant and wide-ranging reforms Provincial legislation and policies that now serve as major impediments to municipal efforts to implement P2G objectives. This was a common theme in the municipal responses to the last draft of P2G across Ontario.

- **Planning Act/OMB Reform**
  As noted in Section B of Report PD04243(b), several weeks after release of the P2G Plan, Planning Act and OMB reform proposals (Bill 51) were announced which go part of the way toward addressing these municipal concerns. More definitive policy or more wide ranging changes are still considered necessary. A report responding to the specifics of these recent proposals will be forthcoming to Council shortly.

- **Amendments to the Environmental Assessment Act**
  In response to earlier P2G Plan documents, City Council and most Ontario municipalities have demanded fundamentally new approaches to infrastructure approval systems. In June, Council made specific recommendations in this regard through Report PW05082. A Provincial advisory panel on Environmental Assessment (EA) reform focused on only full EA procedures whereas most municipal infrastructure is undertaken under Class EA systems. Staff has been informed that changes to the Environmental Assessment Act are forthcoming, but as yet no details are available.

The P2G Plan calls for coordinated land use and infrastructure planning. It presumes close co-ordination in the implementation of major municipal and Provincial infrastructure projects and funding programs. Those objectives are simply impossible to achieve in any timely or reliable fashion under current environmental assessment procedure. As yet there are no practical or reliable means to achieve these laudable objectives under current legislation or EA procedures. Without a basic redirection of the infrastructure planning process from the ‘prove why it should happen’ approach of today’s Environmental Assessment Act toward a ‘how to best make it happen to achieve approved planning objectives’ that is applied in other jurisdictions (as in Europe), there is little hope that timely and coordinated land use and infrastructure planning will ever be achieved in Ontario.

- **Financial Tools and Other Amendments**
  Similarly, significant reforms to develop appropriate financial tools for P2G Plan implementation are still considered to be essential. These tools not only include reforms to the Development Charges Act, Municipal Act, and other municipal legislation but systematic changes in capital funding policies and program practices within the Government of Ontario. To deliver more predictability in infrastructure construction (i.e. Provincial transit and highway development), the Province must provide greater certainty as to the timing and financing of these
investments if municipalities are to align their priorities and coordinate their funding for these services.

Further, a variety of Ministry programs now operating in direct conflict with P2G Plan objectives need to be realigned so as not to continually frustrate local implementation efforts. The ‘D Series Guidelines’ of the Ministry of the Environment (MOE) enforces huge separation distances and unrealistic mitigation requirements between residential intensification projects and existing railway or industrial installations that very seriously impact the City of Hamilton’s ability to implement P2G Plan policies. The City is about to embark on a very expensive OMB hearing in the West Harbour Secondary Plan area (Barton-Tiffany) where this fundamental conflict between P2G Plan objectives for urban intensification and MOE’s D Series policy is at issue.

Similarly, the P2G Plan requires municipalities to once again address the entire affordable housing policy issue. Recent allocations to Ontario municipalities to address assisted housing requirements fall far short of local needs. Unlike many US jurisdictions, municipalities also lack effective powers to enforce non-core affordable housing requirements in new development approvals. Comprehensive local policies on housing affordability are ineffective in the absence of sustained funding for core need units and regulatory powers to deliver appropriate units required by the remaining affordability cohorts.

Further, the P2G Plan calls for municipalities to plan and develop ‘complete communities’ and to intensify development in established urban areas. However, Ministry of Education capital funding policies for local school boards presently work in direct conflict with those objectives. The Ministry’s policies force schools in older neighbourhoods with strong intensification potential to be closed while simultaneously preventing new school development in greenfield neighbourhoods that are in desperate need of new school facilities to become ‘complete communities’.

**Recommendation:**

That the Province of Ontario bring forward major reforms to Environmental Assessment procedure, environmental management policies (e.g., D Series Guidelines of the Ministry of the Environment), Provincial capital and program planning procedures and municipal financing tools which are required to achieve the objectives of the P2G Plan.

**E. Places to Grow Plan Text Changes**

The Places to Grow Act binds municipalities to implement all of its provisions in all Planning Act and Environmental Assessment Act matters. The text of the P2G Plan contains a number of policies that require actions that conflict with municipal authority and normal planning practices needed to achieve its intended outcomes. Further, the P2G Plan occasionally uses terms and phrases which are so ambiguous that they can not be reliably interpreted or consistently applied by municipalities whose actions will be
also judged by Provincial Ministries, the OMB and the public on the basis of strict conformity with P2G Plan requirements.

The details of P2G Plan text changes recommended by staff are contained in Appendix “A” to Report PD04243(b). The rationale for each text change is also provided.

Recommendation:

That the Minister of Public Infrastructure Renewal amend the draft Places to Grow Plan to include changes to the text of the Plan outlined in Appendix “A” to Report PD04243(b) so as to improve opportunities for municipal councils to reliably and consistently administer the objectives of the Plan.

F. Transition Policies and Regulation

One of City Council’s major comments on the last draft of the P2G Plan concerned transition policies and procedures that will be necessary to give municipalities, the development industry and the public a reasonable opportunity to prepare for the changes envisaged in municipal planning practice. Council asked for these transition policies to be made available before the final draft P2G Plan. As of the date of writing for Report PD04243(b), no transition policies had been issued.

If the P2G Plan goes into effect later this spring (2006) with no transition regulations, its definitive standards and mandatory policy requirements will have retroactive impact on a wide range of development applications and on-going municipal planning and infrastructure projects now in process. The Province has already enacted changes to the Provincial Policy Statement and the Greenbelt Plan which have retroactive impacts. The Places to Grow Act specifically allows the P2G Plan to be applied retroactively, should the Minister of Public Infrastructure Renewal so decide. There is no process for municipal input or public consultation on any transition regulations under the Places to Grow Act.

Retroactivity has already had major impacts on the City of Hamilton in respect to the Stoney Creek Urban Boundary Expansion Official Plan Amendments (Greenbelt Plan) and the Setting Sail - West Harbour Secondary Plan (Provincial Policy Statement) – both of which were started long before Provincial plan and policy changes began. In future the matter of retroactivity is of particular significance to the GRIDS project. GRIDS was conceived and put into effect by Council long before the P2G planning process began. As currently drafted, the Places to Grow Act and P2G Plan could be applied to delay completion of the GRIDS project. Alternatively, it could prevent completion or Council adoption of the Official Plan amendments and Infrastructure Master Plans that translate GRIDS into practical municipal policy and programs which are necessary for implementation.

Staff has consistently reinforced Council’s concern for the lack of information on transition policy. In view of the current situation, staff recommends that Council reiterate its serious concerns in this matter.
Recommendation:

That prior to final approval of the Places to Grow Plan the Minister of Public Infrastructure Renewal issue draft transition regulations as provided for by Section 17 of the Places to Grow Act which ensures:

i) Municipalities which commenced growth and infrastructure planning programs prior to the Places to Grow initiative are exempted from its requirements or permitted to complete those programs in a manner that 'has regard to', rather than 'in conformity with' the Places to Grow Plan;

ii) The approval of all applications initiated under the Planning Act and undertakings pursuant to the Environmental Assessment Act which predated the issuance of the final draft of the Places to Grow Plan be exempt; and,

iii) That implementation of the Plan should not occur until:

1) municipalities are given the financial tools (i.e., reforms to Development Charges Act, Municipal Act) to implement the Plan; and,
2) the Province has enacted legislation to amend the Planning Act and Environmental Assessment Act.

iv) All local Boards, Conservation Authorities, Provincial agencies and Ministries are directed not to amend or withhold statutory approvals on the basis of the Places to Grow Plan in respect to the matters included by clauses i) and ii).

G. Association of Municipalities of Ontario

The Association of Municipalities of Ontario (AMO) serves as an effective ‘common voice’ of municipal governments in many legislative and policy initiatives undertaken by the Province. AMO normally focuses these activities on issues which affect ALL municipalities. The P2G Plan raises the need for policy and legislative changes that only impact the municipalities of the Greater Golden Horseshoe. On this basis, AMO has not had a strong mandate to serve its usual role of centralizing the municipal ‘voice’ on the matters discussed by this report.

As indicated in Section D above, the most important ‘next step’ in the P2G Plan program for the City and other affected municipalities is to press for and achieve a wide range of legislative, Ministry policy and Provincial operations reforms that are vital to our ability to implement the P2G Plan. While these changes are of keen interest to Greater Golden Horseshoe municipalities, they may have little of no relevance elsewhere.

While the City and many other Greater Golden Horseshoe municipalities are perfectly capable of speaking for themselves in these matters, the Province will be confronted by many different individual messages. This condition then requires Provincial staff to ‘sort out the details’ without a strong and broadly representative agent to interpret overall municipal interests. In this context staff suggest that there may be real added value to
all in having more direct involvement by AMO, notwithstanding its normal practice to avoid 'local' issues.

Recommendation:

That the Association of Municipalities of Ontario be requested to consider the formation of a special task force of Greater Golden Horseshoe municipalities to engage the Province of Ontario in legislative and Provincial policy reforms that are considered necessary for municipalities to implement the Places to Grow Plan.

**ALTERNATIVES FOR CONSIDERATION:**

Report PD04243(b) recommends a series of proactive comments be made to the Province of Ontario in respect to the P2G Plan. These comments are founded on Council’s acceptance of the basic objectives of the P2G Plan.

An alternative to this approach would be for Council to refuse to comment on the P2G Plan until all outstanding information is released and/or policy revisions that Council considers essential are made. This option is not recommended as it is evident to staff that the Province of Ontario intends to proceed with the finalization and approval of the P2G Plan whether Council’s comments are received or not.

Another alternative would be for Council to raise general arguments on the objectives of the P2G Plan without addressing any specifics. Once again, this option is not recommended. Ministry staff has consulted widely and exhaustively on the previous draft of the P2G Plan. They have indicated that its basic directions are now established. In this context only focused textual and operational issues are likely to be considered in finalizing the Plan.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial – There are significant long term implications for capital funding practices in the City to be impacted by the P2G Plan. The precise nature of these implications will not become evident until further information and legislative reforms are released by the Province.

Staff – As with the Greenbelt Plan, all Planning Act and infrastructure planning decisions must conform to the final P2G Plan. Intensive staff training will be required to prepare staff to implement these new requirements.

Legal – There are potentially significant legal implications associated with achieving P2G Plan conformity which can not be properly assessed in the absence of transition regulations issued under the Places to Grow Act.

**POLICIES AFFECTING PROPOSAL:**

The P2G Plan could have a direct and significant bearing on the completion and outcomes of the GRIDS Program, especially in respect to the size of a future urban...
boundary expansion that must be determined or validated by the Minister of Public Infrastructure Renewal. While the OP and Infrastructure Master Plan programs have been designed to respond to emerging P2G Plan policies, a number of content or level of detail differences with the final P2G Plan may disrupt completion of these projects.

Report PD04243(b) recommends transitional policies be released, publicly debated and confirmed prior to final enactment of the P2G Plan which allows municipally and privately initiated applications and planning projects commenced prior to the P2G Plan to be completed without interference.

RELEVANT CONSULTATION:
Staff team working on the GRIDS project from the Planning and Economic Development Department, Public Works Department and Public Health and Community Services Department have been consulted.

CITY STRATEGIC COMMITMENT:
By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
The P2G Plan implements the Province’s direction of “Building Strong Communities”. Community well being will be enhanced through specific Plan objectives including: building compact and vibrant communities and protecting our many resources of land air and water.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
The P2G Plan implements the Province’s direction of "Building Strong Communities". Environmental well being will be enhanced through specific Plan objectives including: strong protection for our natural heritage system, air and water quality.

Economic Well-Being is enhanced. ☑ Yes ☐ No
The P2G Plan implements the Province’s direction of “Building Strong Communities”. Economic well being will be enhanced through specific Plan objectives including: supporting a strong and competitive economy, protecting our agricultural land base and investment in our existing infrastructure and planning for a coordinated approach for new infrastructure investment.

Does the option you are recommending create value across all three bottom lines?
☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants?
☑ Yes ☐ No

The recommendations of this report support tools and procedures that enable staff to perform their duties more reliably and effectively.

PM/dkm
Attachs. (2)
RECOMMENDED TEXT CHANGES TO PLACES TO GROW (P2G) PLAN

Section 14 of the Places to Grow Act states that any decision made under the Planning Act or Condominium Act, or other legislation as may be prescribed in future, by a municipal council shall conform with the Places to Grow (P2G) Plan. The Act states the P2G Plan prevails over approved Official Plans and zoning by-laws now in effect.

The following recommendations for text changes to the P2G Plan are made to reduce or eliminate potential confusion, delay and uncertainty in municipal planning, building and infrastructure decision practices which were never designed to accommodate mandatory Provincial policies applied retroactively or with little time to conform.

The text recommendations which follow accept the basic principles of the P2G Plan. Supportive municipal planning policies and processes require greater clarity for the P2G Plan to be effective.

Section 2.2.2 i) - Managing Growth

The P2G Plan prohibits any increase in the number of rural settlements. Its controls on urban boundary expansion, minimum urban density and intensification will place significant pressures on rural lands.

The P2G Plan permits ‘Rural Land Uses’ outside of rural settlements, which is a term that has not been defined by any Provincial policy document. It is impossible for municipalities or the OMB to reliably or consistently interpret what ‘rural land uses’ are considered permissible given the huge range of urban and semi-urban land uses that have already been established throughout the rural countryside of Central Ontario. If the P2G Plan seeks flexibility for rural development, the Sub Area assessment process should be used so that municipalities and other decision-makers have the scope of that ‘flexibility’ clearly defined from the outset.

Recommendation:

Change “and other rural land uses that can not be located in settlement areas” to ‘and other rural land uses as may be determined by a Sub Area assessment outside of settlement areas’

Section 2.2.6.4 - Employment Lands Conversion

The effect of the P2G Plan’s intensification targets and objectives combined with the urban boundary expansion constraints of the Greenbelt Plan will be to place intense pressure on existing, designated employment land or industrial parks to be converted to residential, commercial and other urban land uses. It is essential for Section 2.2.6.4 to provide clear direction on employment land conversion procedures. The current wording of this section is confusing and inconsistent.
The inclusion of the word ‘or’ at the end of subsection (e) raises great uncertainty for interpretation. It could mean that only one of the six evaluation criteria for employment land conversion needs to be satisfied or it could mean all of the first five need to be addressed. It could mean that any conversion proposal that satisfies subsection (f) will automatically over-ride the other five factors. By deleting the word ‘or’ municipalities have the clarity needed to apply all five factors to every land conversion decision.

Section 2.2.6.4 f) is still problematic, however. Its wording is so ambiguous that it is impossible to determine what the P2G Plan is seeking to achieve. The P2G Plan does not define ‘provincial priorities’, nor is there a procedure specified for how those priorities are to be invoked, by whom, how or when. This places Councils in an impossible interpretive position when making a Planning Act decision on an employment land conversion issue.

Similar wording ambiguity presents practical problems for municipal conformity in other sections of the Plan.

Recommendations:

1. Delete the word ‘or’ from Section 2.2.6.4 e)
2. Delete 2.2.6.4 f) or specify a future process for the Minister to define what is meant by ‘...address other provincial priorities such as community health and safety enhancement.’

Section 2.2.6.6 - Provincially Significant and Prime Industrial Land

This section of the P2G Plan introduces the notion of local employment land designations that are of provincial interest or of ‘prime’ quality. The policy has important and supportive implications to Council’s intentions regarding land surrounding the Hamilton Airport. Having identified such employment land areas through a Sub Area assessment, the P2G Plan should reinforce their ‘special’ status by removing any opportunity for their conversion to non-employment uses in future years, thereby ensuring a continuing commitment from affected municipalities and property owners to support employment use development.

Recommendation:

Add the following subsection to Section 2.2.6.6: “d) defining and identifying provincially significant and prime industrial land that is exempt from employment land conversion in Section 2.2.6.4.”
Section 2.2.7.1 - Designated Greenfield Areas

This section describes the technical process for measuring the minimum density of development required in greenfield areas. The reference to the treatment of natural and environment lands identified provincial ‘policies’ is too ambiguous for municipal conformity to be achieved. The Provincial Policy Statement and other Ministry policies contain many requirements on natural heritage issues (i.e., habitat of endangered and threatened species, groundwater discharge areas) that do not specifically identify the area of land affected with the precision necessary for measuring densities under the P2G Plan. A precise and reliable definition of features significant to the Province is only provided by Provincial Plan map designations.

Recommendation:

Change ‘…in accordance with provincial plans and policies’ to “… in accordance with provincial plans”.

Section 2.2.8.3 b) - Conform vs. Consistent with

Provincial legislation already establishes a requirement for municipal decisions to ‘conform to’ provincial plans and ‘be consistent with’ the Provincial Policy Statement. Recent OMB decisions concerning Greenbelt Plan implementation have interpreted the ‘conformity’ standard in a rigid and literal fashion. This use of ‘consistent with’ in the context of formal Provincial Plans is erroneous and confusing.

Recommendation

Change “…consistent with the relevant policies of the Greenbelt, Oak Ridges Moraine and Niagara Escarpment Plans’ to ‘to conform to the relevant policies…”

Section 2.2.8.3 c) - Urban boundaries and Community Infrastructure

See comment on Section 3.2.6.

A municipality has no authority, is not properly informed and has no influence over the planning and delivery of many forms of community infrastructure which the P2G Plan requires to be addressed in all planning decisions. This is one of many policies in the P2G Plan referring to community infrastructure that is unreasonable and unworkable in normal Planning Act practice.

Recommendation

Change - “the existing and planned infrastructure and community infrastructure required…” to ‘…the existing and planned infrastructure required’.
Section 2.2.8.3 e) - Adjacent Agricultural Operations

This section of the P2G Plan has been restated from the Provincial Policy Statement. Its effect is to raise the standard of this policy from the status of ‘an important consideration’ to ‘a mandatory requirement’. Staff question the practical value of this.

Protecting agricultural operations from expanding urban development designations is a laudable objective that is generally unworkable in practice. The expansion of urban and rural settlements can create a large number of incompatible impacts on many forms of adjacent agricultural operations. This is a fundamental and unavoidable result of allowing urban land uses to encroach upon livestock, fruit farming and other farm operations which regularly generate noise, odours and other environmental effects which non-farm residents find objectionable.

Right to farm legislation already protects farmers from legal jeopardy in this regard. Municipalities lack the authority and financial resources to pay for on-farm capital investments and operational changes required to further protect or modify farms buildings and production practices to mitigate the real or perceived impacts of non-farm land use encroachment, trespassing, etc. A properly designed study of prime and non-prime agricultural land as required by Section 4.2.2 of the P2G Plan should take encroachment issues into account.

Recommendation

Delete Section 2.2.8.3 e).

- **Section 3.2.1.1 – Infrastructure Planning**

See comment on Section 3.2.6 below.

- **Section 3.2.2.5 - Transportation Co-ordination**

This policy incorrectly presumes that all upper tier municipalities have control over all transportation facilities and services that is sufficient to implement comprehensive transportation demand management and transit usage improvements. Lower tier municipalities control local road systems and many transit services which are essential components to achieving the objectives of this policy. Many upper tier municipalities do not have effective control or influence on these lower tier services to reliably implement this P2G objective.

Recommendation

Change “… upper and single tier municipalities…” to “…municipalities…”
• **Section 3.2.4.1 - Goods Movement**

The City of Hamilton, Toronto and other upper and single tier municipalities have been forced to operate ‘highways’ as a result of provincial downloading. These facilities are in developed and developing urban areas which must serve both goods and people movement functions for the local community. Provincial highways are the primary facilities for inter-regional goods movement and should be the focus of this policy.

**Recommendation**

“First priority for highway investment is to facilitate efficient goods movement...” to “First priority for provincial highway investment is to facilitate efficient goods movement...”

**Section 3.2.4.6 – Goods Movement**

As indicated by report PD04243(b) last year, the ‘D’ Series Guidelines of the Ministry of the Environment, CN and CP Railways policies respecting the development of residential uses adjacent to rail facilities directly conflict with the P2G Plan density and land use objectives governing urban growth areas, intensification areas and built up areas. Municipalities have no authority to resolve these conflicts except through regular and expensive litigation before the OMB on a site by site basis. Provincial leadership to resolve these fundamental conflicts in P2G Plan policy direction is essential for municipalities to achieve conformity.

**Recommendation:**

Add “The Ministers of Transportation and Public Infrastructure Renewal will pursue and co-ordinate policy reforms and establish new standards with other Ministers of the Crown, railway, airport, dockyard and other goods movement facility operators to support the requirements of this Plan for urban growth areas, intensification areas and existing built up areas.”

**Section 3.2.5.1 - Water and Wastewater Systems**

The Places to Grow Act limits municipal conformity to decisions taken pursuant to the Planning Act and Condominium Act. Funding and pricing practices of municipal water and wastewater systems is governed by other legislation which is not within the statutory purview of Councils to address via the P2G Plan.

**Recommendation:**

Delete Section 3.2.5.1.
Section 3.2.6 - Community Infrastructure

The P2G Plan defines *community infrastructure* to include any lands and facilities providing health, education, recreation, socio-cultural, security and safety services to the public. A municipality has no authority, is not properly informed of the service standards, facilities policies, plans and programs implemented by many community infrastructure agencies. Council has no influence over the planning and program objectives of many forms of community infrastructure which this policy demands that Council address in all land use decisions. Even where Council has authority (e.g. social services) location or service standards are frequently dictated by others (e.g., Ministry of Community and Social Services). The policy gives Councils no guidance on how to make decisions where community service infrastructure agencies operate policies and programs which directly conflict with the P2G Plan objectives.

For example, the policies of the Ministry of Education governing the closure and construction of elementary and secondary schools have been specifically designed and to force local school boards to close schools within the designated urban growth centres and intensification areas defined by the P2G Plan. Until the required school closures are achieved, those same Ministry of Education policies virtually prohibit the construction of new elementary and secondary school facilities in greenfield areas where the P2G Plan explicitly requires municipalities to achieve 'complete communities'. Municipal Councils are in no position to resolve this conflict in local planning decisions.

Sections 3.2.6.1 & 3.2.6.2 set out mandatory requirements for all land use and infrastructure planning. This means all municipal decisions on official plans and amendments, zoning by-laws and amendments, plans of subdivision and condominium, land severance, site plans, development permits and minor variances would have to take address ‘community infrastructure’ over which the municipality has no jurisdiction, operational knowledge or influence.

The mandatory wording of Sections 3.2.6.1 and 3.2.6.2 places every municipal planning and development approval decision in jeopardy of being:

a) challenged by ‘community infrastructure’ agencies who do not or will not supply service to growth in greenfield or intensification areas needed for the ‘complete community’ objectives of the P2G Plan,

b) appealed by persons who feel aggrieved by inadequate service from those community infrastructure agencies over which a municipality has no control, and

c) delayed due to the municipality’s lack of knowledge or jurisdiction on how to evaluate land use implications of continually evolving plans and programs of ‘community infrastructure’ agencies which may ignore community land use considerations entirely.

The provisions of Section 3.2.6 for mandatory application in day to day local planning decisions are unworkable and unrealistic.
Recommendations:

1. Change Section 3.2.6.1 from “…community infrastructure investment will be co-coordinated…” to ‘community infrastructure investment will be considered in the review of Official Plans…”

2. Change Section 3.2.6.2 from “Development will take into account the availability and location of existing and proposed community infrastructure…” to ‘Official Plans are encouraged to establish policies which consider the availability and location of existing and proposed community infrastructure…”

Section 4.2.1 & 4.2.2 - Natural System and Prime Agricultural Areas

Planning for the protection of prime agricultural lands and significant natural areas has been a basic function of the Provincial Policy Statement and most municipal Official Plans for decades. The P2G Plan proposes that the Province will do its own studies which duplicate and supercede municipal official plans in these matters. With the exception of a few municipalities in the Greater Golden Horseshoe, this Provincial initiative will waste much of the investment which municipal taxpayers have already made in the delineation and planning of these resource lands.

A Provincial study will use slightly different scale and technical content assumptions and be completed without the detailed field checks and at a lower level of detail than the studies already completed by many municipalities and conservation authorities. The experience of the City of Hamilton with Provincial mapping of these resource lands by Greenbelt Plan serves as an excellent example of the pitfalls of this approach.

In delineating the Natural System in the Greenbelt the Province applied air photo interpretation techniques, using data 3-4 years out of date. On that basis the Ministry to designated a number of ‘natural corridors' of environmentally significant land south of the City’s present urban boundaries. One of those ‘natural corridors’ was designated by the Ministry in an area that has been significantly altered and impacted by the alignment of the new Hwy # 6 south of Hamilton Airport. Provincial staff did not know that this highway existed because of they used out of date information and did not allow for municipal input to their analysis.

Similar deficiencies were encountered in the Ministries’ delineation of ‘specialty crop’ land in the Hamilton area. Both the Ministry and the City undertook LEAR studies of agricultural areas with dramatically different results. The City’s LEAR analysis was conducted at a much more precise level of detail than employed by the Province for the overall Greenbelt. Consequently, large areas of land excluded from ‘specialty crop’ and ‘prime agriculture” status by the more refined techniques used by the City were included in the Provincial version.
The proposed wording changes to Sections 4.2.1.1 and 4.2.2.1 seek to avoid an unnecessary duplication of effort and improve local credibility of any resource land delineation which the Province undertakes in future.

**Recommendation:**

Change Section 4.2.1.1 and 4.2.2.1 to read: “In consultation with individual upper tier municipalities, the Minister of Public Infrastructure Renewal and the Minister…will identify the natural system/prime agricultural areas and, where appropriate through a sub area assessment, specify revised designations and additional policies for its protection.”

**Section 4.2.4.1 e) - Cultural Heritage**

The present wording of this section only refers to the conservation of cultural heritage resources in ‘built up areas’; whereas many important resources exist in rural areas that merit equal or greater policy attention.

**Recommendation:**

Change to read: “Conservation of cultural heritage and archaeological resources are intensified”

**Section 5.1.2 - Implementation Analysis**

See discussion on Sections 4.2.1.1 and 4.2.2.1 above.

**Recommendation:**

Change paragraph following 5.1.2.4 to read: “The work on the built boundary, designated greenfield areas, urban growth centres, natural system and prime agricultural lands will be undertaken by the Minister of Public Infrastructure Renewal through one-on-one consultation with individual upper tier municipalities.”
APPENDIX B – SYNOPSIS OF KEY POLICIES - PLACES TO GROW (P2G) PLAN

Note:
1. Items followed by **(NEW)** did not appear in the last draft of the Places to Grow Plan or have changed significantly from that version.
2. The P2G Plan contains many new or updated policies that ‘encourage’ various actions and results. Only significant policies are highlighted below.

Growth Forecast:
Province has specified and will maintain mandatory growth targets for each single and upper tier municipality to be used in all growth planning and policies. Hamilton’s forecast targets a population of 660,000 people, 300,000 jobs and 270,000 households by 2031. **(NEW)**

Managing Growth:
Municipalities are to plan for ‘complete communities’ with a mixture of housing, jobs and other land uses in all settlements. The establishment of new settlement areas (i.e., lifestyle or satellite communities) is prohibited. **(NEW)**

Intensification:
i) The approved Places to Grow Plan will delineate a ‘built area’ boundary line for each major town and urban area. This boundary line will not change in future. All development within the boundary line constitutes ‘intensification’ and all development outside the line constitutes ‘greenfield’ development.

ii) Municipalities shall monitor the amount and density of development occurring within these areas for compliance with Places to Grow performance standards.

iii) 40% of all residential development shall occur within the ‘built area’ boundary in Hamilton by 2015.

iv) Municipalities must create a planning strategy with interim performance targets to ensure 40% intensification and minimum density targets are achieved. **(NEW)**

v) Municipalities must immediately achieve a greenfield density target to be the greater of; 50 persons and jobs per gross hectare, the existing average density, or the average density already set out by municipal planning policies.

vi) The approved Places to Grow Plan will delineate a boundary for all ‘urban growth centres’. The density performance target for the downtown Hamilton urban growth centre shall be no less than 200 persons and jobs per hectare.

vii) Municipal Official Plans must designate ‘major transit station areas’ and ‘intensification corridors’ where priority is given to intensification and land use diversification which supports transit, walking, cycling, etc. **(NEW)**
Employment:

i) An adequate supply and variety of employment lands shall be provided to and maintained to support a variety of economic activities. (**NEW**)

ii) Toronto will be the primary centre for international finance and commerce. (**NEW**)

iii) Major offices and major institutional uses (undefined) shall only be located in urban growth centres, major transit station areas or locations with direct access to higher order transit service.

iv) Municipalities are encouraged to designate and protect land adjacent to major highway interchanges for industrial and associated land use.

v) Municipalities may only permit conversion of current employment land designations in Official Plans to other uses through a comprehensive plan review process and shall be subject to detailed tests and standards of justification. (**NEW**)

vi) Through Sub Area Assessment studies, the Province will set guidelines for planning future employment areas of Provincial economic, size, functional or locational significance. (**NEW**)

Urban Boundaries:

i) The Province will determine the size of all future urban boundary expansions. Single and upper tier municipalities will determine the locations and phasing of urban boundary changes to implement that quantum. (**NEW**)

ii) Small cities and towns outside the Greenbelt shall achieve a minimum of 1 full time job for 3 new residents in all urban expansion decisions and planning strategies.

Rural Areas (outside of the Greenbelt):

i) Only development compatible with rural landscape and services is permitted. No multiple lot residential development allowed.

ii) New rural development shall not hinder agriculture and expanding agricultural operations adjacent to urban and rural settlement areas will be protected when feasible. (**NEW**)

iii) Through the Sub Area Assessment the Province will identify prime agricultural areas and where appropriate, policies for their protection.

iv) Through the Sub Area Assessment the Province will identify natural environment system and where appropriate, policies for its protection.

v) The Province will develop a long term strategy for mineral aggregate resources (sand, gravel, clay & shale) and extraction in consultation with stakeholders.
Infrastructure Planning:
i) Infrastructure and land use planning will be co-coordinated. *(NEW)*

ii) Province will develop and co-ordinate multi-year infrastructure strategies of its Ministries to support the P2G Plan. *(NEW)*

iii) Municipalities will develop Official Plan policies to address water and energy conservation, air quality protection, solid waste recycling, diversion and management, support cultural heritage resources, and comprehensive parks, trails and open space systems. *(NEW)*

Transportation:
i) The Province will ensure major arterial roads, highways, railways and transit way corridors are identified, protected and planned for multi-modal transportation services. *(NEW)*

ii) Through the Sub Area Assessment, the Province will refine, co-ordinate and set phasing strategies for transportation planning and capital investment in consultation with single and upper tiers. *(NEW)*

iii) Single and upper tier Official Plans will set transportation demand management policies to reduce trip distances & times, increase alternatives to automobile travel.

iv) Public transit shall have first priority for transportation planning and investment to shape urban growth, increase use and capacity of existing systems, expand services to intensification, major transit station and urban growth areas. *(NEW)*

v) Highway investments shall give first priority to goods movement.

vi) Development will be discouraged in or adjacent to highway corridors outside of urban and rural settlement areas.

vii) Municipalities will plan for land uses that support goods movement near goods movement transportation facilities, while balancing intensification policy objectives for existing urban areas. *(NEW)*

Water and Wastewater:
i) Water and wastewater systems must be financed to achieve full cost recovery.

ii) New or expanded water and wastewater systems in urban and rural settlements should implement water conservation and demand management objectives and serve intensification and density targets to address human health issues for uses legally established prior to the P2G Plan. *(NEW)*

iii) Through the Sub Area Assessment, the Province will refine, co-ordinate strategies for water and wastewater servicing capacities & strategies.

Community Infrastructure:
i) Land use and community infrastructure (i.e., public service, health, education, recreation, security and socio-cultural facilities) planning and investment will be co-coordinated. *(NEW)*

ii) All development decisions must take account of the availability and location of existing and proposed community infrastructure to be provided efficiently, effectively and in a logical fashion. *(NEW)*
iii) Community infrastructure agencies are encouraged to plan, fund and deliver services with land use and infrastructure plans through a collaborative and consultative process. (NEW)

iv) Municipalities will establish and implement affordable housing targets for a range of housing types and densities required by the regional housing market.

v) Affordable housing strategies will include both ownership and rental housing in support of P2G Plan intensification and density targets.

Plan Implementation:

i) The Province will initiate Sub Area Assessment studies for portions of the P2G Plan area to be determined by the Minister. Sub Area Assessments will generate policies and implementation strategies to inform future amendments to the Places to Grow Plan and municipal Official Plans. (NEW)

ii) Sub Area Assessments will assess and refine P2G policies for employment planning, refinement and phasing of the transportation network, assess requirements for water and wastewater capacity to serve projected growth, identify the natural environment system and identify prime agricultural and other rural land areas outside of urban and rural settlements. (NEW)

iii) Sub Area Assessments will be undertaken with a scope tailored to local circumstances of each sub-area and co-coordinated across municipal boundaries. (NEW)

iv) Where the P2G Plan requires further analysis that is not yet available, all relevant policies continue to apply and should be implemented to the fullest extent possible. (NEW)

v) The Ministry of Public Infrastructure Renewal will develop indicators to implement the P2G Plan, monitor overall performance and require municipalities to monitor and report their individual performance.

Municipal Consultation:
The Province will consult only with single and upper tier municipalities in the future development and implementation of a variety of P2G policies. The P2G Plan policies and standards established from this consultation are binding on all municipalities, however the upper tiers municipalities will have to deal with their low tiers within their jurisdictions. (NEW)