

Assessment of Legislative Framework for Protecting Farmland Regional Municipality of Halton, ON June 2018

SUMMARY

Overall, the strength of the local legislative framework to protect farmland for Halton Region, Ontario (ON), is **somewhat strong**. The importance of the municipality’s agricultural system is clearly and continuously referenced through extensive goals and policies indicated in the Halton Region Official Plan (HROP). This clear statement of importance is coupled with the integration of numerous provincial plans that guide and constrain land-use planning across the Region. Because different types of provincial legislation impact different parts of Halton Region, this assessment distinguishes between agricultural-land situated inside versus outside the Greenbelt Plan (GBP). Protection for agricultural land that is covered by the GBP is strong, and the rest of the region that is not covered by the GBP is considered somewhat strong, as shown in the table below. Refer to the table (Table 1) at the end of this report for a summary of the legislative framework for protecting farmland.

Strength of Legislative Framework: Summary Assessment

	Overall Strength	Maximise stability	Integrate across jurisdictions	Minimise uncertainty	Accommodate flexibility
Halton Region (overall)	Somewhat Strong	****	****	***	****
Halton Region (Greenbelt)	Strong	****	****	****	****
Halton Region (non-Greenbelt)	Somewhat Strong	****	****	***	****

* = Very weak; ***** = Very strong

ABOUT THE SITE

Halton Region is a regional municipality comprised of approximately 964 square kilometres of urban and rural landscapes. The region includes the city of Burlington and the towns of Oakville, Milton, and Halton Hills. Halton Region is considered a part of the Greater Golden Horseshoe (GGH) area of Southern Ontario that extends along the shore of Lake Ontario from Niagara Falls to Clarington. Also, as part of the Greater Toronto Area (GTA) (Figure 1), Halton Region is unique in that it is the only regional municipality in the GTA that does not sit directly adjacent to Toronto’s city.

Figure 1. Map of Greater Toronto Area



Source: https://en.wikipedia.org/wiki/List_of_municipalities_in_the_Greater_Toronto_Area

Halton Region has seen tremendous growth over the past twenty years. The population grew 17.1% between 2001 and 2006, 14.2% between 2006 and 2011, and 9.3% between 2011-2016, increasing the population to a total of 548,435 (Statistics Canada, 2016). This growth rate designated Halton as the third fastest growing Census Division (CD) over 500,000 in Canada during the last Census period. The Town of Milton is considered to be the highest growing Census Subdivision (CSD) over 50,000 in Canada, with the town's population swelling by 36% between 2011-2016. As populations have quickly increased across the region, the areas have urbanised and, together, now support nearly 200,000 residents.

Regional growth remains in the forecast. According to Ontario's provincial growth plan, *Places to Grow*, the Province predicts the population of Halton Region will reach 820,000 residents by 2031 and over 1 million residents by 2041 (Places To Grow, 2017). As these populations rise, so do the demands for proper housing and varied employment opportunities. Consequently, the demand for urban development is extremely high.

Halton Region has a good supply of agricultural land with high capability. According to the Halton Region Agricultural Strategy Background Report (HRASBR), 70 percent of the land base is comprised of agricultural areas, hamlets, mineral resource extraction areas, and rural areas overlain by a natural heritage system (HRASBR, 2016) (Figure 2). Excluding land is designated as urban or as a natural heritage site, approximately 33% (31,899 hectares) of Halton Region is designated as prime agricultural land. The rural land base is categorised as land north of the NEC Plan Area; land within Niagara Escarpment Plan (NEP) Area and land south of NEP Area. North of the NEP, the agricultural land base is contiguous and has significant overlap with Greenbelt/Natural Heritage Sites. Agricultural land south of the NEP is somewhat contiguous and surrounds urban centres. Almost half of the region's prime agricultural land exists south of the NEP Area.

Generally, Halton Region has very high soil productivity and the local climate produces sufficient heat units and rainfall for crop production. Based on gross farm receipts, the top commodities produced in Halton are mushroom, cash crops, greenhouse product, nursery product, horse and pony, poultry, and egg (Census of Agriculture, 2011). Despite facing a significant drop in the value of gross farm receipts, the farming sector of Halton Region remains a substantive source of the rural economy and producers are committed to sustaining a strong and viable future of agricultural entrepreneurship (HRASBR, 2016).

However, due to the high demand for urban growth, the pressure to develop agricultural land is extremely high. Halton Region has experienced the highest rate of decline in farmland area in the Golden Horseshoe. While the overall region of the Golden Horseshoe experienced a decrease of farmland area of 6% from 2006 to 2011, Halton experienced a 10% loss (HRASTR, 2016). There is less pressure to convert rural land to residential areas north of the NEP Area, and significant pressure to convert agricultural land in the southern areas south of the Niagara Escarpment.

The legislative framework for protecting farmland in Ontario differs depending on which legislation covers the agricultural land base. The *Planning Act* provides the foundation for protecting farmland, including a Provincial Policy Statement (PPS) that protects prime agricultural lands and specialty crop areas for long-term use for agriculture. In most parts of the province, which are covered by only the PPS, the framework is moderate. Where a package of additional legislation applies, including the *Greenbelt Act*, *Niagara Escarpment Planning and Development Act*, and *Places to Grow Act*, which covers the Greater Golden Horseshoe area that surrounds Toronto and Niagara Escarpment, the legislative framework for protecting farmland is somewhat strong.

Figure 2. Regional Structure (Halton Region Official Plan)

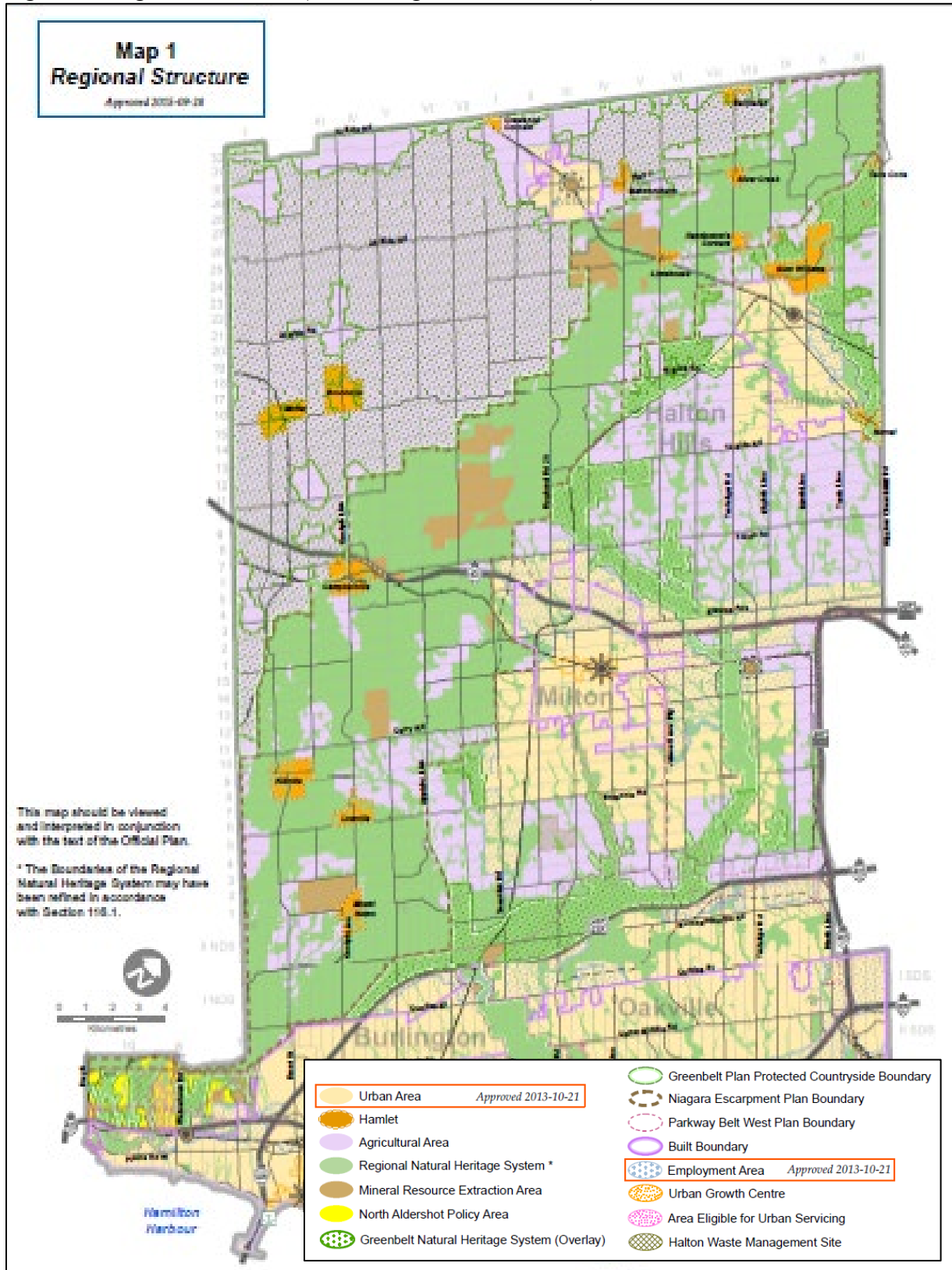


Figure 3. Agricultural System and Settlement Areas (Halton Region Official Plan)

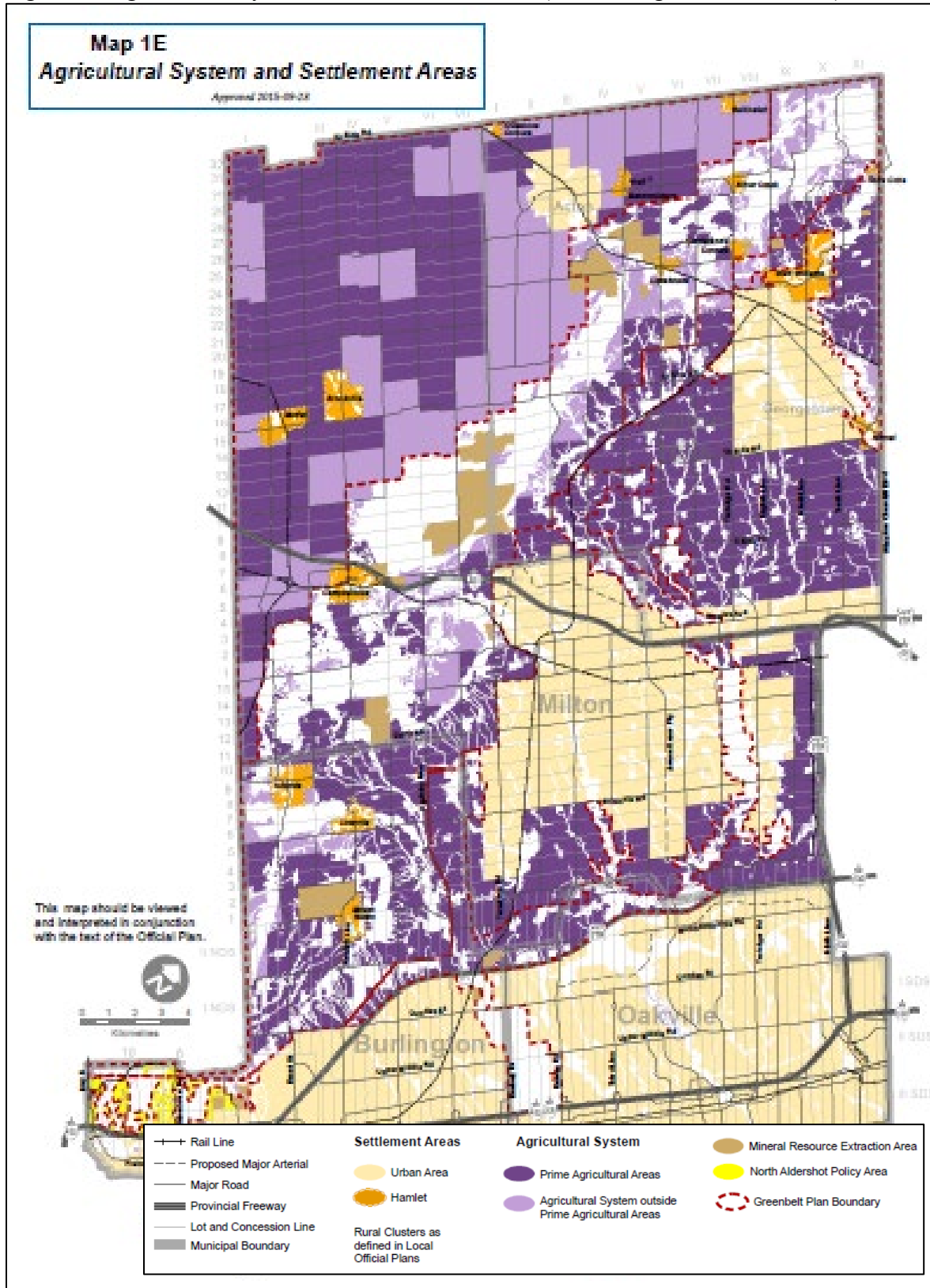
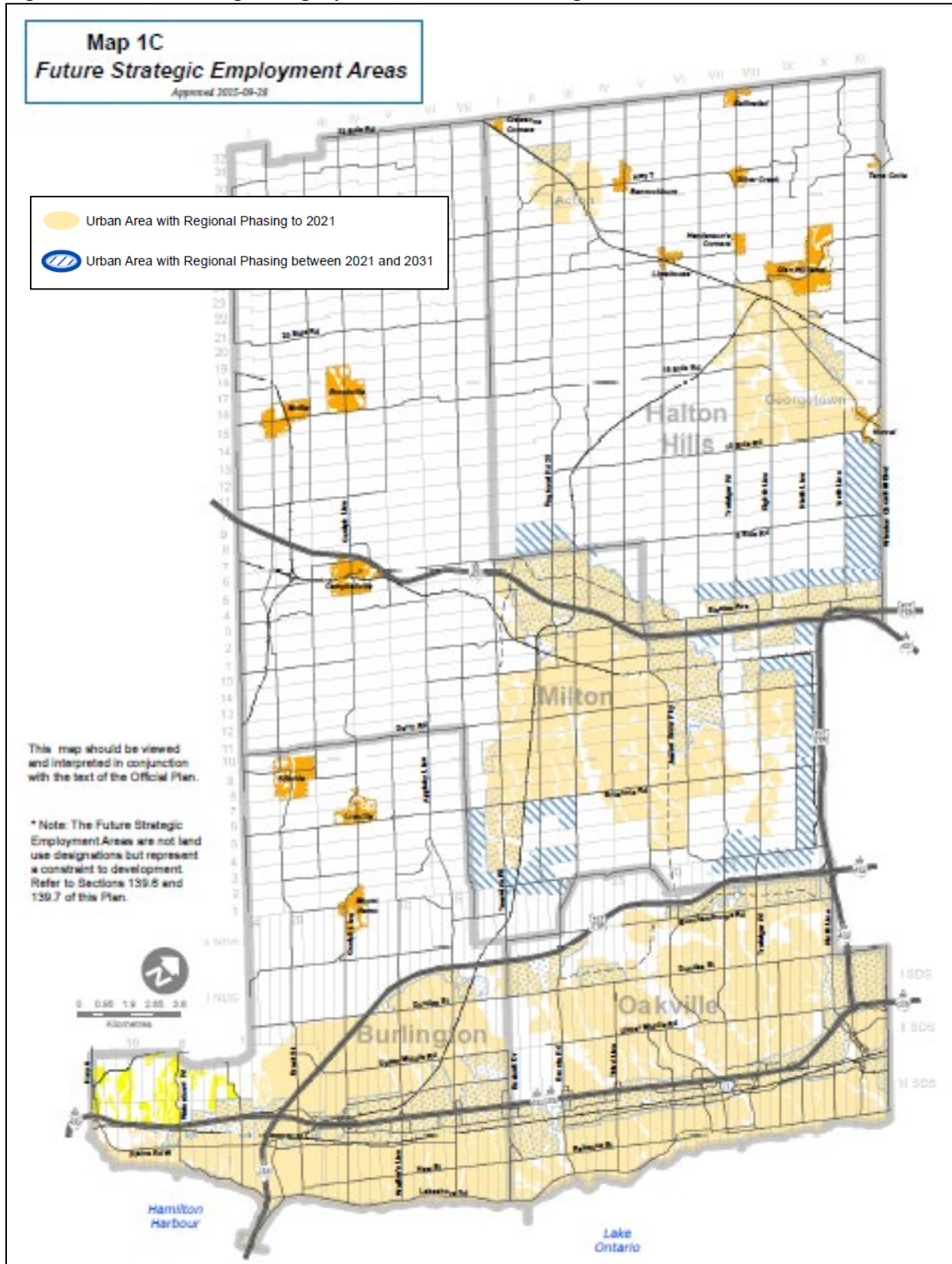


Figure 5. Future Strategic Employment Areas, Halton Region Official Plan



RESULTS

Maximise stability

A stable legislative framework for protecting farmland is one that is not easily changed at the whim of shifting political interests; it is well-entrenched in acts of legislation, policy, and governance structures that are based on clear, concise language, and can hold up to court challenge. A key element of stability is a clear statement of purpose regarding farmland protection among the primary goals and objectives within each enforceable document. Thus, stability is a critical measure of the strength of an agricultural land-use planning framework.

The legislative framework for protecting agricultural land in Halton Region appears very strong in stability and presents explicit commitments to preserve agricultural land. This framework is comprised of the Halton Region Official Plan (HROP) with clearly written goals and policies, and support documents such as Halton's Rural Agricultural Strategy (RAS). As part of a two-phase, research and strategy-development process, Halton Region Council is taking steps to address the many successes and challenges facing the agricultural and rural communities in order to develop a comprehensive long-term implementation strategy that will be incorporated with broader provincial efforts to protect and preserve farming viability across the Golden Horseshoe. To this end, the mission of the Halton Region Rural Agricultural Strategy (RAS) is defined as, "To sustain and grow a prosperous rural community and permanent agricultural system within Halton Region."

As stated in the vision statement in Official Plan, "Planning decisions in Halton will be made based on a proper balance among the following factors: protecting the natural environment, preserving Prime Agricultural Areas, enhancing its economic competitiveness, and fostering a healthy, equitable society" (HROP, 2016). The primary goal for the agriculture system is "to maintain a permanently secure, economically viable agricultural industry and to preserve the open-space character and landscape of Halton's non-urbanized areas."

Some notable objectives include:

- 99(2) To preserve Prime Agricultural Areas, as shown on Map 1E, and prime agricultural lands
- 99(3) To maintain as much as possible lands for existing and future farm use.

Overall, although clear and consistent commitment is noted for supporting Halton's agricultural industry, the Official Plan could use stronger language to emphasize efforts towards farmland protection. For example, the HROP indicates the foremost agricultural priorities are "to maintain a permanently secure, economically viable agricultural industry and to preserve the open-space character and landscape of Halton's non-urbanized areas." The inclusion of "permanently secure" indicates a long-term interest in preserving and sustaining Halton's agricultural industry and thus, economy, for the region. However, explicit mention of sustaining the agricultural land base is a notable absence. While the specific language pertaining to agricultural goals and policies is encouraging, the omission of more explicit statements that acknowledge permanent protection of Halton Region's farmland raises concern.

Furthermore, not all land is treated equally in Halton Region. While certain provincial legislation, such as the Greenbelt Plan and the Niagara Escarpment Planning and Development Act, is in place to permanently protect agricultural lands and ecological features in the Protected Countryside from urbanization, lands within the Agricultural Area, while subject to the policies of the HROP, have less protection. Among the HROP policies associated to Halton's agricultural system, in the context of farmland protection, the most significant worth noting is:

- 139.9.2(2) Within the Greenbelt Plan Area, prohibit the redesignation of land within Prime Agricultural Areas to permit non-agricultural uses, except where permitted by the Greenbelt Plan.

This policy explicitly protects any agricultural land within the Greenbelt area, but does not represent the entirety of Halton's total agricultural region. Policies for farmland outside of the Greenbelt do not offer as much protection against non-farm development.

Integrate public priorities across jurisdictions

Integrating policies and priorities across jurisdictions is a foundation for building cohesion across provincial, regional, and local governments. One can also think of integration as a formal "linkage" that provides consistency among them. In order to successfully integrate policies across jurisdictions there must be sufficient details about the legislative context that guides and constrains local government plans and strategies.

Halton Region's ability to integrate across jurisdictions is strong. The Official Plan includes designated sections (ss. 36-56) that provide clear descriptions and specified principles to ensure vertical integration with both the province and its lower-tier (local) municipalities. For example, section 37 of the OP conveys the Region's view of its relationship with the province, as follows:

- (1) effecting Provincial Plans and policies in the context appropriate for Halton and its Local Municipalities and within the Region's financial capability;
- (2) acting on behalf of the Province in planning approvals, application reviews and matters that have been delegated to the Region under the Planning Act or other Provincial legislation;
- (3) coordinating plans, programs and activities among Provincial ministries, the Region and the Local Municipalities; and
- (4) responding to Provincial initiatives and proposed policies, plans and legislation after consulting its Local Municipalities and public agencies in Halton.

Municipal plans for lower-tier municipalities are expected to conform to Halton's Regional Plan and this is clearly indicated in its legislative framework. In this regard, the HROP (s. 101(1)) states, "Require Local Official Plans to recognize the Agricultural System as identified in this Plan and Local Zoning By-laws to permit agricultural operations within the Agricultural System in accordance with policies of this Plan." In addition, integration is supported through the following statements:

44. The Region's primary role is to provide broad policy directions on strategic matters such as management of land and natural resources, growth strategies, housing, economic development, water and wastewater services, solid waste management, transportation, and health and social services. Recognizing the above, the Local Municipalities are to deal with their local environments to best express their own individualities. The structuring of communities and neighbourhoods and the internal configuration of each of the Local Municipalities, for instance, are the responsibilities of the Municipalities as long as the overall planning vision for Halton and policies of this Plan are adhered to.
47. Local Official Plans, covering the whole of each Local Municipality, are necessary extensions of The Regional Plan, and are intended to direct development in accordance with local desires while adhering to policies of this Plan. In the event of conflict between policies of The Regional Plan and those of a Local Official Plan, the former shall prevail.

As Halton Region is bound to the requirements of several provincial plans, such as the Greenbelt Plan and the Oak Ridge Moraine Conservation Plan, as well as the *Farming and Food Protection Act*,

integration with these pieces of legislation is also consistently recognised throughout the legislative framework. For example, the HROP maintains the same definition of what constitutes “normal farm practices.” In addition, Halton Region views its role within the broader region “as one of partnership with the other regions or cities and the Province to promote understanding of issues, to exchange openly information and views, and to seek solutions to common problems.”

In addition, Halton’s Regional Agricultural Strategy (RAS) includes elements of integration. For example, as part of the Golden Horseshoe Food and Farming Alliance (GHFFA), an organisation established to promote food and farming in the seven regions and cities that comprise the Golden Horseshoe, Halton Region Council has developed its RAS to “be consistent with, build on and complement the Golden Horseshoe Food and Farming Action Plan” (HRRAS, 2016).

Minimise uncertainty

The presence of uncertainty, typically introduced via ambiguous language, exceptions, or gaps, is a critical measure of the weakness of an agricultural land use-planning framework. Thus, in addition to maximising the stability of a legislative framework through enforceable policies, people want to know they can rely on these rules and regulations to be applied consistently under different circumstances.

Halton Region’s legislative framework is rated as moderate for minimising uncertainty. In the face of pressures of urban development, the Region’s legislative framework outlines several objectives that emphasise designated boundaries and define the approach to housing and urban development in Halton Region. The Region’s approach to managing growth is evident in the following statements:

- 51.1 Boundaries of the following specific areas are also outlined on Map 1, to provide information and assist in the application of policies:
 - (1) Niagara Escarpment Plan Area, as defined in the Niagara Escarpment Plan,
 - (2) Parkway Belt West Plan Area, as defined in the Parkway Belt West Plan,
 - (3) Greenbelt Plan Protected Countryside Area, as defined in the Greenbelt Plan, and
 - (4) Built-Up Area, generally based on the report Built Boundary for the Growth Plan for the Greater Golden Horseshoe, 2006 (2008).
- 55.1 The Regional Structure also sets out targets for intensifying development within the *Built-Up Area*, and development density in the Designated Greenfield Areas as contained in Table 2.

Defined as “all land within the ‘Built Boundary,’” the Built Up area is encompassed in “the limits of the developed urban area as identified in the Provincial Paper, Built Boundary for the Growth Plan for the Greater Golden Horseshoe, 2006, (2008).” This area is expected to accommodate a minimum of 32 200 new housing units¹ between 2015-2031 and anticipates accommodating for 391,000 employment opportunities; a nearly 80% increase from the 218,000 figure noted in 2006 (HROP, p. 17). Defined as all land within the ‘Built Boundary’, this means ‘the limits of the developed urban area as identified in the Provincial Paper, Built Boundary for the Growth Plan for the Greater Golden Horseshoe, 2006’ (HROP, p. 177).

Correspondingly, the first objective under Urban Area of the HROP is to “accommodate growth in accordance with the Region's desire to improve and maintain regional unity, retain local community identity, create healthy communities, promote economic prosperity, maintain a high quality, sustainable natural environment, and preserve certain landscapes permanently” (s. 72(1)). While “certain

¹ This figure accounts for 40% of the new housing units in Halton Region between 2015-2031. Sourced from Halton Region Official Plan, 2016, Pg. 18.

landscapes” is undefined, the following objectives under Housing (s. 85) suggest that development will be prioritised for existing urban areas and mitigated on agricultural land:

- (4) To make more efficient use of existing developed lands, housing stock and available services to increase the supply of housing while maintaining the physical character of existing neighbourhoods.
- (12) To support the use of surplus public and not-for-profit lands, where appropriate, for developing Assisted Housing and Affordable Housing
- (13) To promote residential intensification through the development or redevelopment of brownfield and greyfield sites.

As well, numerous elements of the legislative framework indicate how Halton Region supports farmland protection regardless of the type of development, as evident in the following statements under sections of Agricultural System and Agricultural Area, as follows:

- 99(4) To protect farms from incompatible activities and land uses which would limit agricultural productivity or efficiency.
 - (4.1) To promote *normal farm practices* and to protect the *right to farm*.
- 99(5) To reduce the fragmentation of lands suitable for agriculture and provide for their consolidation.
- 101(1.6)(a) Direct non-farm uses to the Urban Area, Hamlets and Rural Clusters unless specifically permitted by policies of this Plan.

However, at the same time, some of the language of the HROP contributes to uncertainty. In this regard, the identification of Future Strategic Employment Areas as a “constraint to development” is noteworthy. The HROP defines “employment area” as “areas designated in an official plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices and associated retails and ancillary facilities.” Section 139.6 states the purpose of Future Strategic Employment Areas as “certain lands that are strategically located with respect to major transportation facilities and existing employment areas and are best suited for employment beyond the planning horizon of this Plan.” However, these future employment lands are also prime agricultural areas (Figures 3 and 5). Rather than a land use designation, the Future Strategic Employment Areas are identified under Constraints to Development, whereby, under s. 139.7(1), these future employment lands cannot be re-designated “to uses that are incompatible with employment uses in the long term, especially non-farm uses such as institutional and recreational uses.” In other words, farming on prime agricultural land is viewed as a short-term use that is suitable for future non-farm development, thus contributing to uncertainty about the future development of these agricultural lands.

Accommodate flexibility

Creating an effective legislative framework is an act of balance, without being too stable so that it cannot be changed when needed or too strict so that it cannot be applied in a range of circumstances. Thus, flexibility is necessary in order to moderate the restrictive effects of maximizing stability and minimizing uncertainty. The means to accommodate flexibility is typically done through itemized considerations when evaluating exceptions and governance mechanisms that reflect local agricultural interests and priorities in the decision-making process.

Halton Region’s legislative framework for accommodating flexibility is somewhat strong. With regard to expansion of urban areas, the HROP outlines a detailed protocol to follow for any development proposals. Under Urban Areas, the HROP (s. 77(7)) states that Urban Area expansions will be “based

on a municipal comprehensive review undertaken as part of the Region’s statutory five-year review of the Official Plan,” provided that it can be demonstrated that the expansion satisfies certain conditions. Among these conditions, the proposed expansion will have to meet the requirements of the Niagara Escarpment Plan and the Greenbelt Plan, which provides protection for farmland within the Greenbelt; however, the same protection is not indicated for agricultural regions outside of Niagara Escarpment and Greenbelt areas. Regarding expansion onto agricultural lands (s. 77(7)d), expansion is permitted under the following conditions:

- [i] the lands do not comprise *specialty crop areas*;
- [ii] there are no reasonable alternatives that avoid *Prime Agricultural Areas*; and
- [iii] there are no reasonable alternatives on lower priority agricultural lands within the *Prime Agricultural Areas*

There are also two additional conditions under s. 77(7) related to expansion of urban areas onto prime agricultural land:

- e) impacts from the expansion on *agricultural operations* adjacent or close to the Urban Area are mitigated to the extent feasible;
- f) the amount of land area and the most appropriate location for expansion to the Urban Area are consistent with the Provincial Policy Statement, the Growth Plan for the Greater Golden Horseshoe, and *goals, objectives* and *policies* of this Plan....

The conditions for expansion consider implications for agricultural land, among other things. However, the term “mitigated to the extent feasible” contributes to uncertainty.

In addition to developing extensive agricultural goals and policies, Halton Region supports the agricultural sector through the council of the Halton Agricultural Advisory Committee (HAAC) and the Halton Region Agricultural Liaison Officer. Additional agriculture-specific plans and strategies, such as the Rural Agricultural Report and Strategy (in development)² and the Agri-Tourism Action Plan, provide additional guidance and information for the Halton Region Council.

² Rural Agricultural Strategy
http://www.halton.ca/planning_sustainability/agriculture_environment/rural_agricultural_strategy/

Assessment of Legislative Framework: Halton Region, ON

Table 1. Legislative Framework for Halton Region, ON

	POLICY	LEGISLATION	GOVERNANCE
PROVINCIAL	<p>Provincial Policy Statement (2014) Niagara Escarpment Plan Protected Countryside (Greenbelt Plan) Oak Ridges Moraine Conservation Plan</p>	<p><i>Planning Act</i>, R.S.O. 1990, c. P.13 <i>Niagara Escarpment Planning and Development Act</i>, R.S.O. 1990, c. N.2 <i>Places to Grow Act</i>, S.O. 2005, c. 13 <i>Greenbelt Act</i>, 2005, S.O. 2005, c. 1 <i>The Farming and Food Protection Act</i> 1998.</p>	<p>Local Planning Appeal Board</p>
REQUIRED INTEGRATION	<p>[PPS] Provincial Policy Statement Ontario Planning Act <i>Planning Act</i> s. 1.1(c) to integrate matters of provincial interest in provincial and municipal planning decisions <i>Planning Act</i> s. 5 Decisions shall be consistent with provincial policy statements and shall conform, or shall not conflict, with provincial plans, as the case may be. <i>Planning Act</i> s. 6 (2) Ministries shall have regard for municipal planning policies. <i>Planning Act</i> s. 2 planning authorities shall have regard for provincial interest (e.g. protection of agricultural resources). <i>Planning Act</i> s. 27(1) amendments to lower-tier OPs shall conform to upper-tier OPs. <i>Greenbelt Act</i> s. 6(2)(e) the Greenbelt Plan may set out policies with respect areas designated as Protected Countryside, including policies prohibiting official plans and zoning by-laws containing provisions that relate to specific matters and are more restrictive than those provisions relating to such matters in the Greenbelt Plan. <i>Greenbelt Act</i> s. 7(1) decisions made under the <i>Planning Act</i> shall conform to with the Greenbelt Plan.</p>		
REGIONAL	<p>Halton Region Rural Agricultural Strategy - Background Report (2016) Greater Golden Horseshoe Agriculture & Agri-Food Strategy (2012)</p>	<p>Halton Region Official Plan</p>	<p>Halton Agricultural Advisory Committee</p>

Acts (provincial laws), bylaws (local government laws, e.g., official municipal plan) [italicised]

Enforceable policy, regulations pursuant to acts [bold]

Aspirational policy at all levels [plain text]