

Staff Report

Report To: Community Services Committee
Report From: Sabine Robart, Manager of Planning & Heritage
Meeting Date: May 17, 2023
Report Code: CS-23-053
Subject: Proposed Bill 97 and Provincial Policy Statement 2023
Review

Recommendations:

THAT in consideration of Staff Report CS-23-053 respecting the proposed draft Provincial Policy Statement, the Community Services Committee recommends that City Council direct staff to:

1. Forward the report to the Province of Ontario as the City's comments on Bill 97 and the Environmental Registry of Ontario posting 019-6813: "Review of proposed policies adapted from A Place to Grow and Provincial Policy Statement to form a new provincial planning policy instrument";
2. Indicate support for comments made through County of Grey reports PDR-PEDAC-19-23 and PDR-AAC-20-23;
3. Forward the report to the Standing Committee on Heritage, Infrastructure and Cultural Policy as the City's comment; and
4. Provide a copy of the report to Rick Byers, MPP.

Highlights:

- Bill 97 "Helping Home Buyers and Protecting Tenants" proposes several amendments to land use planning legislation. The Province has also released a new Provincial Planning Statement (proposed PPS, 2023), which combines the Provincial Policy Statement, 2020 (PPS) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2022

(Growth Plan) into a single document. The government has advised that the proposed PPS, 2023, is expected to come into force in the fall of 2023.

- City Planning staff attended a meeting hosted by Grey County of all land use planners from Grey County and discussed the policy review.
- City Planning staff generally concur with and support the County's comments and provide additional comments through this report.
- The deadline for comments to be submitted to the Environmental Registry of Ontario is June 5, 2023.

Strategic Plan Alignment:

This report supports the delivery of Core Service.

Climate and Environmental Implications:

This supports the objectives of the City's Corporate Climate Change Adaptation Plan by considering climate adaptation in the development of the City's strategies, plans, and policies.

Previous Report/Authority:

[CS-22-084](#) Bill 109 More Homes for Everyone Act 2022 – Overview and Next Steps

[CS-22-149](#) Bill 23 Proposed Changes to the Ontario Planning Act and Heritage Act

[CS-23-012](#) Provincial Review of a Place to Grow and Provincial Policy Statement – EBR Posting 0196-177

[PDR-PEDAC-19-23](#) – County Comments on Bill 97 and Draft Provincial Policy Statement (2023) – Grey County Planning and Economic Development Advisory Committee

[PDR-AAC-20-23](#) Draft Provincial Policy Statement (2023) – Grey County Agricultural Advisory Committee

Background:

The Ontario provincial government has committed to getting 1.5 million homes built over the next ten years.

In 2021, the Province established the Provincial Housing Affordability Task Force to recommend measures to increase the housing supply in Ontario. The Provincial Affordable Housing Task Force released their report in 2022 and made 55 recommendations to the province.

In response to the report by the Provincial Housing Affordability Task Force, the Province has passed Bill 109, *More Homes for Everyone Act, 2022* and Bill 23, *More Homes Built Faster Act, 2022*, in 2022.

These Acts implemented fundamental changes to the Ontario Planning Act, Development Charges Act, Conservation Authorities Act and Ontario Heritage Act, among other pieces of legislation, to facilitate the provincial government’s housing supply goal. The City provided written comments with respect to these proposed changes as listed above.

In late 2022, the province announced a review of the Provincial Policy Statement (PPS) 2020 and '*A Place to Grow: Growth Plan for the Greater Golden Horseshoe*' (Growth Plan), with the goal of consolidating the two documents. The 2022 consultation provided a series of discussion questions for stakeholders to consider, with the stated goal of accelerating the development of housing and increasing housing supply. (Note: '*A Place to Grow: Growth Plan for the Greater Golden Horseshoe*' did not apply to Owen Sound or Grey County).

On April 6, 2023, the province also introduced Bill 97, the *Helping Homebuyers, Protecting Tenants Act* which proposes changes to several pieces of legislation, including the *Planning Act* and the *Development Charges Act*. Bill 97 delivers further changes to the *Planning Act*, in addition to the changes implemented through Bills 109 and 23 in 2022.

Also on April 6, 2023, the province released a new draft 2023 Provincial Policy Statement (PPS). The draft 2023 PPS replaces the Provincial Policy Statement (PPS) 2020 and '*A Place to Grow: Growth Plan for the Greater Golden Horseshoe*' (Growth Plan) by integrating both into a single, province-wide land use planning document. The province is seeking comments on the draft PPS by June 5, 2023, through the Environmental Registry of Ontario.

Analysis:

The proposed 2023 PPS is attached as Attachment 'A'.

Grey County Planning staff have provided a report (PDR-PEDAC-19-23) to Grey County Planning & Economic Development Advisory Committee which provides County comments on Bill 97 and the draft PPS. City Planning staff echo and support the County's comments and recommend that Committee and Council read the County report. The comments in this report provide further analysis of the proposed PPS in the context of Owen Sound.

In general, the City of Owen Sound supports the provincial effort to create more housing and to provide increased support to tenants. As an ongoing partner in supporting the delivery of a full mix and range of housing options, the City is working to develop and implement an [action plan to promote and facilitate attainable and affordable housing](#).

Bill 97 Helping Homebuyers, Protecting Tenants Act

Bill 97 proposes the following changes:

1. Updates to the implementation timeframe for planning application refund dates introduced through Bill 109. Bill 97 changes the refund initiation date for zoning amendments (90 days) and site plan applications (60 days) from January 1, 2023, to July 1, 2023. The amendment would also allow for regulations to designate municipalities as being exempt from the refund requirements;
2. Updates to the definition of "area of employment" to further refine areas of employment to manufacturing and warehousing, but not to include institutional uses or commercial uses, except where such commercial uses are associated with the manufacturing or warehousing;
3. Clarification on the parking requirements for additional residential units (ARUs) based on the Bill 23 changes. Bill 97 makes it clear that municipal official plans and zoning by-laws can require more than one parking space for the primary/initial residential unit;
4. Changes to the interim control by-law appeal procedures to adjust both who can appeal and the timing for issuing notice of passing;
5. Changes to the site plan provisions for residential developments of up to 10 residential units, to prescribe certain areas (within 120 metres of a shoreline or within 300 metres of a railway line) where site plan control could still be utilized for smaller numbers of residential units;

6. New powers are granted to the Minister with respect to:
 - a. Requiring municipalities and landowners to enter into agreements where the Provincial Land Development Facilitator has been engaged.
 - b. Exempting lands subject to Minister's Zoning Orders (MZOs) from PPS consistency and official plan conformity when applying for planning applications such as plans of subdivision.
 - c. Making regulations with respect to the transition date of a new PPS.
 - d. Making regulations regarding the powers of municipalities to set up demolition or conversion by-laws for residential rental properties.
7. Striking out the "parcel of urban residential land" definition and replacing it with "parcel of land" as it applies to ARUs. The changes to the *Development Charges Act* will exempt all standalone ARUs from the payment of development charges, assuming the overall site density limits are not exceeded. The changes to the *Planning Act* clarify that where a municipality adds such ARU policies outside of serviced settlement areas, the policies themselves are no longer appealable; and,
8. Appointing up to four Deputy Facilitators under the Provincial Land and Development Facilitator.

Comment

City staff concur with County's comments that a 'pause' option for the refund provisions where the municipality and developer are working to meaningfully refine applications would be very valuable to achieve a high-quality product. Often complex applications include ten (10) or more supporting studies. A mutually agreed upon 'pause' would allow feedback from the public and agency partners to be addressed in a thoughtful way and parties to work collaboratively towards a solution.

In order to achieve the prescribed timelines, it would be helpful if the Province's own commenting agencies would be required to provide comments within the commenting window available in the timeline. There are several examples where various provincial ministries have not

commented or comments are delayed well beyond the approval window now prescribed for decision.

Planning staff would note that the fee refund provisions are punitive toward municipal finances, and do not address housing supply. It is important to note that the development process is a multi-faceted and dynamic process that relies on all participants to comply with the submission of quality information and technical studies, in a timely manner addressing all comments and concerns.

Further information is requested from the Province relating to what would define an exempted municipality from the refund requirement and when this regulation would be in force and effect.

City staff would recommend that the prescribed areas where site plan control can be utilized for the development of ten residential units or less should be extended to include those areas located adjacent to an arterial or collector road to allow for land use compatibility and site design considerations such as noise and safety issues as well as road widening, archaeological study and accessibility.

The removal of site plan approval for developments with less than ten residential units has not necessarily improved the development process given that issues such as servicing capacity, access, local improvements, land dedications, easements, etc. are still required to be addressed. Staff are exploring alternative approaches to address these requirements; however, these approaches may not be more efficient or effective than a 60-day site plan approval process in the long run. As such, Planning staff recommend that full site plan approval for residential developments of ten units or less should be restored.

Although Minister's Zoning Orders (MZOs) have not been used in the northern part of Grey County or Owen Sound, Planning staff are concerned that MZOs would be exempt from complying with the PPS and local official plan. This change could have serious implications for servicing and capital budget improvements that are allocated based on Official Plan policies and land use designations. Staff recommend that MZO should remain consistent with provincial and City policies and consultation with municipalities should be a mandatory part of the MZO process.

Bill 97 initiated changes in a number of other provincial legislations including changes supportive of increasing the rights of tenants, specifically regarding

the installation of A/C units and increasing fines. City staff have had numerous counter inquiry regarding the installation of private A/C units in rental apartments over the past few years and staff are encouraged by these changes.

Draft 2023 Provincial Policy Statement (PPS)

The Provincial Policy Statement (PPS) is issued under the *Planning Act* and provides overall policy direction on matters of provincial interest related to land use planning and development in Ontario and applies province-wide, except where the policy statement or another provincial plan provides otherwise. The PPS is a key part of Ontario's land use planning policy system and is critical in establishing provincial direction on protecting resources of provincial interest, public health and safety and the quality of the natural and built environment. It leads to a province-wide approach that is applied locally.

Under the *Planning Act*, planning decisions shall be consistent with policy statements including the PPS. Municipal official plans are the most important tool for implementing the PPS and for achieving comprehensive, integrated and long-term planning.

The draft 2023 PPS integrates the Provincial Policy Statement 2020 (PPS 2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) into a singular, province-wide policy document.

The draft 2023 PPS proposes changes in the following areas:

- (1) Growth targets, allocations, and planning horizon
- (2) Affordable housing and coordination
- (3) Employment land conversions
- (4) Climate change
- (5) Servicing
- (6) Natural heritage policies – not included in the current draft.
- (7) Implementation and updated definitions

Growth Targets, Allocation, Intensification & Planning Horizon

Key changes:

- Schedule 1 to the PPS provides a list of large and fast-growing municipalities, for which some additional policies apply. These municipalities are generally located in the Greater Golden Horseshoe. No areas within Grey County are included Schedule 1.
- The 2020 PPS permitted a planning horizon of up to 25 years. The new PPS proposes to change this to “at least 25 years”.
- Section 2.3.5 of the new PPS encourages planning authorities to establish density targets for new or expanding settlement areas as appropriate, while large and fast-growing municipalities are encouraged to plan for a minimum density target of 50 residents and jobs per gross hectare.
- When the Minister approves an MZO, the resulting development is in addition to the projected needs established in the official plan. The MZO lands would then need to be incorporated into the official plan and infrastructure plans at the time of the next official plan update.
- There are a number of changes to the intensification policies including permitting and facilitating all types of intensification by allowing for the conversion of existing commercial and institutional buildings to residential uses.

Comment

Planning staff recommend that the proposed PPS carry forward policies requiring the majority of growth to be directed to existing urban areas, minimum intensification targets, minimum greenfield development density target and the tests to justify settlement boundary expansions to ensure that ensure new development in designated growth areas occurs adjacent to existing built-up areas.

The Province should retain requirements for a minimum greenfield density target in order to facilitate the development of compact, transit-supportive communities with a mix of housing choices; while avoiding the need to develop on natural areas and prime agricultural land, especially when the development is not contiguous to the existing built-up area.

Affordable Housing & Coordination

Key changes:

- The 2023 PPS has removed the definition for “affordable” as it pertains to both rental and home ownership.
- The definitions for “housing options” have been expanded to include a wider range of housing choices and living models across the province including multi-unit lot residential developments on rural lands and expanded lot severance permission in agricultural lands.
- Explicit permission for two ARUs per parcel as well as three (3) additional severed lots on parcels of land existing as of January 1, 2023, in agricultural areas outside of specialty crop areas.
- Land use planning and planning for housing is required to be coordinated with Service Managers and school boards.

Comment:

It is appreciated that the proposed PPS references increasing the supply and mix of housing options to address the full range of housing affordability needs. The addition of laneway housing, garden suites, multi-generational housing, student housing, culturally appropriate housing, and supportive, community and transitional housing is helpful to encourage a greater range of housing that better meets local needs.

City staff agree with the County’s comment that removing the definition of ‘affordable’ drives the housing policies further away from a measure of affordability that is tied to income.

City and County staff have significant concerns regarding the expanded permissions regarding lot creation in rural and agricultural lands and the resulting significant negative impacts on both rural and urban environments. County staff provided a separate report to the Grey County Agricultural Advisory Committee (PDR-AAC-20-23). City staff fully support the comments and recommendations of this report. Staff concerns include:

- There is a large, existing supply of lots. The ability to create up to three lots on existing lots will further undermine the planning function of serviced urban areas.
- Land will be permanently removed from agricultural production.
- New non-farm residential uses in agricultural areas will result in land use compatibility issues and may limit the ability of farms to expand (MSD II). MDS II should be reconsidered to protect agricultural uses and the planned function of agricultural areas.

- This type of scattered non-farm development does not support the notion of complete communities, it is not walkable, is not transit supportive and is expensive to service (e.g. waste and recycling pickup).
- The long-term environmental impact of this density of development on private services (well and septic systems) is not considered.
- The proposed lot creation policies place additional pressure on nearby urban areas to provide soft services (recreation, health services, etc.) for this population who do not contribute to the urban tax base.
- Fully serviced urban areas have significant investment in water and sewage infrastructure. This permissive lot creation policy will result in short-term consideration that development is 'cheaper' in this area, undermining the role of settlement areas with no consideration for the long-term environmental impact.
- Removal of agricultural lands undermines long-term food security and sustainability of a growing population.

Staff are concerned with the proposal to reduce or remove policy direction and language that strengthens efforts to secure affordable housing. This includes the removal or absence of:

- references to affordability supporting the achievement of complete communities;
- requirements for affordable housing targets that align with Housing and Homelessness Plans;
- a specific definition on affordable housing that supports a consistent understanding and approach; and,
- reference to affordability in the definition of housing options.

While the impetus of many recent legislation and policy changes has been affordable and attainable housing, this policy does little to achieve this goal.

Efforts must be made to ensure that the new supply is truly affordable to low- and moderate-income households and includes purpose-built rental and supportive housing. All orders of government must work together to increase the supply and longevity of affordable housing and strengthen the capacity of municipalities, the non-profit and private development industry, and other community partners to respond to rapidly growing needs.

City staff encourages the Province and school boards to proactively plan for an appropriate supply of schools in areas of high growth and intensification,

as well as encourage schools to be co-located within mixed-use and residential developments.

Employment Land Conversions & Employment Changes

Key changes:

- The draft PPS scopes employment areas to industrial and warehousing uses, including ancillary retail and office uses. The previous definition included other types of employment in these areas, including offices. These changes would have the effect of prohibiting standalone commercial or institutional uses in designated employment areas.
- The draft PPS appears to have lessened the restrictions regarding the separation between employment areas and sensitive land uses.
- The 2023 PPS has removed the need for a comprehensive review when considering a conversion of a designated employment area to a non-employment use.

Comment:

City staff concur with the County in the merit in some flexibility around re-designating employment areas, particularly those that may be isolated or surrounded by incompatible land uses. However, staff recommend that the comprehensive review provisions not be deleted from the PPS, but rather the province may wish to better define those instances where a comprehensive review is not required or can be scoped commiserate with the scale of the proposed re-designation.

The proposed changes to employment area and land use compatibility policies may make it easier to locate sensitive land uses in closer proximity to industrial uses. Long-term economic prosperity relies on employment lands. Substantial changes to these policies could result in sensitive land uses, including schools and new residential high-rise buildings, being built in proximity to industry. Planning staff recommends that the policies on employment areas and land use compatibility should be:

5. Strengthened to ensure an appropriate separation and transition between heavier employment uses and sensitive land uses is achieved to ensure the long-term protection of employment areas; and,
6. The PPS should clarify the province's intent for employment lands outside of employment areas. The creation of flexible mixed-use

areas that include residential, commercial, institutional and employment uses may aid in the development of compact and complete communities. However, planning policies will be required to ensure compatibility between the uses. It is also important to note that the implications and implementations of these types of policies change significantly when applied in smaller urban areas such as Owen Sound vs large urban centres such as Mississauga.

Servicing

Key changes:

- municipal services can include both centralized and decentralized servicing systems, without defining either term.
- partial servicing provisions no longer contain a limitation (i.e., maximum of four lots) on extending partial services into rural areas.

Comment:

Planning staff concur with County comments that the province should consider adding some additional definitions to clarify terms such as centralized servicing systems, decentralized servicing systems, infilling, and minor rounding out.

However, more importantly, Planning staff recommend that planning for new or expanded infrastructure occurs in an integrated, coordinated, efficient and fiscally responsible manner that is supported by relevant studies, including assessment of climate change impacts and full life cycle costs. Expanded residential development on partial, possibly privately owned services will result in long-term and cumulative impacts on the environment. There are many examples of growth in private services that are not sustainable in the long term. The recent request for water services by the Pottawatomi subdivision in Georgian Bluffs illustrates this point. Again, this type of servicing undermines the planned function of urban areas with millions invested in full infrastructure services.

Climate Change

Key changes:

- General policies requiring municipalities to plan for climate change would be carried forward.

- However, policies requiring infrastructure and public service facilities to prepare for the impacts of a changing climate would be deleted as well as:
 - Transportation – delete a policy promoting a land use pattern, density and mix of uses that minimize the length and number of vehicle trips and support current and future use of transit and active transportation.
 - Water - delete a policy on evaluating and preparing for the impacts of a changing climate to water resource systems at the watershed level.
 - Stormwater Management - delete a policy requiring that stormwater management practices minimize stormwater volumes and contaminant loads, and maintain or increase the extent of vegetative pervious surfaces.
 - Waste Management - delete a policy encouraging and promoting reduction, reuse and recycling objectives and replaced it with more generic language on “integrated waste management”.

Comment:

Planning staff recommends that climate change needs to be considered in all planning decisions and should be reinforced as a provincial priority throughout the PPS. The province is urged to retain policies requiring climate change to be considered as part of land use and infrastructure planning, and preparation of infrastructure and public service facilities for the impacts of climate change. The removal of stronger policies represents a step backward that will not support efforts to respond to a changing climate.

Natural Heritage

Key changes:

The province did not include natural heritage policies in the draft 2023 PPS. Revised natural heritage policies are anticipated to be released in the coming months.

Comment:

The province is urged to have meaningful engagement with Indigenous communities, municipalities, conservation authorities and other stakeholders for the revision of the natural heritage policies. Planning staff recommend that a healthy natural heritage system is necessary to maintain and enhance

long-term quality of life, environmental health, ecological integrity and economic prosperity and that a comprehensive natural heritage systems planning approach is maintained in any revised natural heritage approach.

Implementation and Definitions

Key changes:

- The draft 2023 PPS contains a number of new, updated, and deleted definitions.
- The draft PPS proposes to delete a clause which states; *"The official plan is the most important vehicle for implementation of this Provincial Policy Statement. Comprehensive, integrated and long-term planning is best achieved through official plans."*
- Further changes to the implementation section note that; *"Planning authorities shall keep their zoning and development permit by-laws up-to-date with their official plans and this Policy Statement by establishing permitted uses, minimum densities, heights and other development standards to accommodate growth and development."*
- *"Where a planning authority must decide on a planning matter before their official plan has been updated to be consistent with this Policy Statement, or before other applicable planning instruments have been updated accordingly, it must still make a decision that is consistent with this Policy Statement."*

Comment:

Planning staff concur with County staff comments in that Planning staff *in all municipalities are supportive of keeping official plans and zoning by-laws up-to-date, but note that this becomes very difficult to do with the constant legislative and policy changes at the provincial level.*

Many municipalities across the province have yet to fully update their official plans and zoning by-laws from the 2020 PPS, in addition to the Bill 109 and Bill 23 changes. Furthermore, staff are still awaiting further information and regulations on Bill 23, to enact some of the legislative changes locally. To update upper and lower-tier official plans, followed by zoning by-laws, it takes significant municipal efforts and expenses. While staff support the province's desire for continuous improvement in land use planning, there needs to be some stability and lag-time, so that planning authorities can 'catch-up' to all the changes in legislation and policy. This constant change also causes confusion and delays in processing development applications [at

a time when application volumes are high and limits are set for adherence to timelines].

County Staff further note that transitioning to a newly updated PPS also causes implementation timing issues, as evidenced by the above-noted statement on deciding on a planning matter prior to updating an official plan to be consistent with the PPS. The transitional powers relating to the PPS implementation in Bill 97 are broad, such that they could impact both future development applications, and on-going applications. With the scope of changes proposed in 2023 draft PPS, this transition could be significant and result in many applications that conflict with current official plans, but are consistent with the PPS (e.g., residential lot creation in prime agricultural areas).

The PPS should be implemented following careful consideration of feedback and significant educational efforts by the Province to ensure the new policy is understood and can be implemented locally.

Financial Implications:

None at this time.

The City will be required to update the City's Official Plan and Zoning By-law to reflect the final approved PPS. There will be costs associated with the required local policy updates. This is unfortunate as the Official Plan update was just completed.

Communication Strategy:

Future posting of a draft or final policy and subsequent report to the Community Services Committee.

Consultation:

Staff has consulted with the County of Grey planning staff along with planners from other lower tier municipalities in Grey County and municipalities outside of the Grey Bruce region.

Attachments:

Schedule A – Proposed Provincial Policy Statement

Recommended by:

Sabine Robart, M.SC. (PL), MCIP, RPP, Manager of Planning & Heritage
Pam Coulter, BA, RPP, Director of Community Services

Submission approved by:

Tim Simmonds, City Manager

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