



Corporation of the Township of Brock

Staff Report to the Mayor and Members of Council

From: Robin Prentice, MCIP, RPP

Position: Director of Development Services

Title / Subject: Proposed Provincial Planning Statement, 2023 and Bill 97, Helping Homebuyers, Protecting Tenants Act, 2023

Date of Report: June 6, 2023

Date of Meeting: June 12, 2023

Report No: 2023-DS-012

1.0 Issue / Origin

On April 6, 2023, the Ontario government released Bill 97, the Helping Homebuyers, Protecting Tenants Act and a draft Provincial Planning Statement, 2023. The purpose of this report is to provide an update to Council as to the proposed changes and how they may impact the Township of Brock and includes comments from Township staff.

2.0 Background

[Bill 97, the Helping Homebuyers, Protecting Tenants Act, 2023](#) was posted on the Environmental Registry of Ontario's (ERO) website on April 6, 2023, with comments requested by May 6, 2023. Bill 97 aims to amend several statutes to facilitate Ontario's Housing Supply Action Plan and increase housing supply in the province. The bill addresses rental replacement regulations, site plan control, planning application fee refunds, the definition of "area of employment," and interim control by-laws, which will be outlined further in this report.

The proposed [Provincial Planning Statement, 2023 \(PPS\)](#) was posted on the ERO's website on April 6, 2023, with comments requested by June 5, 2023. In response to the overwhelming feedback regarding the proposed PPS and associated impacts to agricultural lands, the Province extended the commenting deadline to August 4, 2023.

The purpose of the proposed 2023 PPS is to repeal the current Provincial Policy Statement, 2020 and a Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (the "Growth Plan") and replace these documents with an integrated policy statement. Similar to the current PPS, all decisions would be required to be consistent with the new PPS.

The Provincial Policy Statement, 2020 and Growth Plan both provide comprehensive, integrated policy direction on land use planning matters including:

- Growth management, housing and economic development;
- Infrastructure planning, including sewage, water and stormwater management services transportation, transit, energy supply and corridor protection;
- Protection and management of resources, including prime agricultural areas, aggregates, natural heritage, water, and cultural heritage; and,
- Protection of public health and safety, such as mitigating potential risks due to natural and human-made hazards.

The PPS aims to create an integrated land use planning policy framework that would apply Province-wide. The policies in the proposed PPS are grouped under five pillars:

- generating an appropriate housing supply;
- making land available for development;
- providing infrastructure to support development;
- balancing housing with resources; and
- implementation.

The Province indicates that the PPS changes are intended to increase Ontario's housing supply by streamlining policies, granting greater authority to municipalities, and providing flexibility to create more housing.

If the proposed PPS is adopted, the Provincial government would consequentially revoke the existing Provincial Policy Statement and Growth Plan as well as amend regulations under the Places to Grow Act, 2005.

In addition, the Provincial government is proposing an administrative amendment to the Greenbelt Plan so that the policies in the Greenbelt Plan are maintained should the existing Provincial Policy Statement and the Growth Plan be revoked. This change would maintain the existing Greenbelt Plan standards and is intended to clarify that the existing policy connections in the Greenbelt Plan to the Provincial Policy Statement, 2020 and Growth Plan remain in effect. This means that the same policies would continue to apply in the Greenbelt Plan Area should the new PPS be approved.

3.0 Analysis

3.1 Provincial Planning Statement (2023)

Agricultural and Rural Area

The PPS proposes to make significant changes to policies related to the development of lands in the agricultural and rural areas. The new policy framework speaks to encouraging a continuous agricultural land base through an agricultural system approach and municipalities will still be required to designate and protect prime agricultural areas for long-term use. However, it will be easier to sever and establish more housing within prime agricultural lands.

The proposed policies no longer discourage residential lot creation in prime agricultural areas, which would be permitted subject to meeting certain criteria. Up to 3 new lots would be permitted to be created from existing lots in prime agricultural areas. Proposed policy criteria include the requirement for agriculture to be the principal use on the existing lot, any new residential use is to be compatible with and would not hinder existing agriculture operations, any new lot is to comply with Minimum Distance Separation (MDS) formulae, be limited to the size need to accommodate sewage and water services, has existing access on a public road with appropriate frontage and is adjacent to existing non-agricultural land uses or lower priority agricultural lands.

Similar to the additional residential unit policies that were introduced for serviced urban areas through Bill 23, the proposed PPS would permit additional residential units on farm properties (up to 2 additional units per lot).

- **Staff Comment:** Allowing additional residential development and the division of large farms into smaller lots will affect the operational viability of land for agricultural uses. The proposed policy approach will have significant impacts to agricultural lands throughout the province by opening up agricultural protection policies that have been in place for decades (even before the Greenbelt Plan was in place). The provincial government should strongly reconsider the proposed policy approach for the agricultural area by maintaining the current policy approach that limits severances and multi-residential development in the agricultural area while considering other policies that would support farmers and farm families.
- **Staff Comment:** It is important to note that while these impacts will have huge consequences throughout the province, the Township of Brock is a Greenbelt community and therefore, it is staff's understanding that Brock will continue to be regulated by the policies of the Greenbelt Plan. Staff request confirmation that this would mean the proposed new policies that permit residential lot creation/severances and additional residential units within the agricultural area would not apply within the Township.

Natural Heritage

The Province has not yet released the proposed approach to natural heritage as they remain under consideration by the government. Once proposed policies and definitions are ready for review and input, it is understood that they will be made available through a separate posting on the ERO.

- **Staff Comment:** It is unclear when the proposed policies concerning the protection of the natural heritage system will be released, therefore staff are unable to provide detailed comments at this time. Based on recent policy changes, Township staff are concerned that the Province may be considering relaxing environmental considerations in favour of increasing the housing supply. There needs to be a balance between increasing the housing supply and protecting and managing resources and the natural environment. Increasing the supply of housing and the range of housing types is important, but this should not come at the expense of the environment, or other important planning considerations.

Climate Change

Under the proposed PPS, there will be general policies requiring municipalities to plan for climate change.

Planning for Growth

With the proposed repeal of the Growth Plan, municipalities will no longer be required to plan to specific population and employment targets for a horizon year. After 20 years of being required to plan for a specific target in a specific year, and all land budget decisions driven by those targets, this fundamental aspect of growth planning in Ontario is proposed to come to an end.

The Province expects municipalities will continue to use the 2051 targets as a minimum and over time, municipalities will be expected to carry out their own forecasting.

When updating official plans (OPs), municipalities will be required to have enough land designated for at least 25 years (a change from up to 25 years), with planning allowed to extend beyond this horizon for infrastructure, employment areas and strategic growth areas.

The Growth Plan contained specific intensification targets which required municipalities to plan for a certain amount of growth within defined built boundaries. The 2023 PPS supports intensification generally, but with no specific targets to be met.

The PPS proposes to identify “large and fast-growing municipalities” with growth directed to strategic growth areas. The Township of Brock is obviously not included in the list of large and fast-growing municipalities but the municipalities in south Durham Region have been included in the list.

The concept of municipal comprehensive reviews of OPs has not been carried forward into the 2023 PPS. It is the Province’s expectation that a municipality will update its OP as often as is required to ensure compliance with all applicable provincial plans and policies.

The PPS removes the definition of “affordable” as it applies to housing, with housing policies based on an expanded “housing options” definition.

- **Staff Comment:** The removal of specific growth and intensification targets may result in more sprawl, which may result in inefficient land use patterns and may also result in increased infrastructure costs to support new homes. The delineated built boundary assists with measuring intensification targets within a municipality.
- **Staff Comment:** It is anticipated that the planning approval authority of the Region of Durham will cease at the end of 2024 in accordance with Bill 23. The Province should provide more guidance and clarity on how each municipality is expected to carry out their own forecasting without an upper-tier planning authority taking the lead in coordinating such an exercise on such a large geographical scale with numerous stakeholders. Planning for growth requires a coordinated approach that needs to be aligned with infrastructure plans and budgets.

Settlement Area Boundary and Built Boundary

With no requirement for municipal comprehensive reviews, municipalities will be able to consider settlement area expansions at any time. The tests to be applied are not as stringent as they were, and require consideration of adequacy of servicing, phasing and agricultural issues, such as the minimum distance separation formula. There is no limitation on the ability of landowners from applying for an expansion, although the Planning Act continues to limit the ability to appeal the refusals of any such applications.

The concept of a delineated built-up area contained in the Growth Plan has not been carried forward into the 2023 PPS.

- **Staff Comment:** The proposed policies concerning settlement area boundary expansions appear to conflict with the intent of other policies in the proposed PPS with respect to the protection of prime agricultural lands. The proposed PPS no longer requires a municipality to demonstrate a need for the expansion. This may result in premature expansion of settlement area boundaries into prime agricultural areas where opportunities for growth may already exist in already built-up areas. This may also have negative impacts on infrastructure costs to support new homes with uncontrolled expansions taking place at any time.
- **Staff Comment:** As a Greenbelt community, Township staff would request clarification that the Township would still be subject to the current settlement area boundary expansion policies that limit expansions into the Greenbelt Plan Area.

Employment Areas

The definition of 'employment areas' is proposed to be changed in both the Planning Act and the new PPS. The focus is on uses that cannot locate in mixed use areas, such as heavy industry, manufacturing and large scale warehousing.

Municipalities can consider (and landowners can apply for) the removal of land from employment areas. The tests to be met include that there is a need for the removal, and the land is not required for employment uses over the long term; however, in the absence of land budgets and targets to be met with the proposed repeal of the Growth Plan, the application of these tests will rely on targets contained in OPs. The Planning Act continues to limit the ability to appeal refusals or non-decisions of such applications, but Bill 97 proposes to change the definition of areas of employment.

- **Staff Comment:** Staff request the Province provide a sufficient transition period to allow municipalities to complete a fulsome review of their OPS and make any required amendments to appropriately identify and protect areas of employment.

Overall Staff Comments on the Proposed PPS, 2023:

Township staff support the integration of the Provincial Policy Statement, 2020 and Growth Plan into one new Province-wide planning policy document. However, the goal of increasing housing supply and supporting a range and mix of housing options needs to be balanced with the goal of protecting and managing resources, the natural environment, agricultural land and public health and safety. Increasing the supply of housing and supporting a diversity of housing types is important but should not come at the expense of the environment, agricultural land, or other important planning considerations.

Township staff support the idea of streamlining and simplifying policy direction, as well as policy direction that allows for flexibility and takes into account local circumstances.

The approach to maintaining the existing Greenbelt Plan policies is not clear. As a Greenbelt Plan community, Township staff request clarification as to whether any of the new PPS policies would apply within the Township (such as within designated settlement areas). If not, how does the Province intend to maintain the existing Provincial Policy Statement, 2020 and Growth Plan moving forward? It may be slightly complicated to have 2 different sets of rules that apply to different areas throughout the province.

The elimination of intensification targets, the repeal of the Growth Plan and the ability to expand settlement areas at any time will shift how, where and when municipalities grow. The proposed policy

approach, while more flexible to local circumstances, could have unintended consequences of uncontrolled, sprawling growth and development.

A barrier to the acceleration of housing construction is the investment in infrastructure needed to support new homes. The Province should provide financial support to assist municipalities in accelerating development, which could include funding for new roads, water and sanitary services, trails, recreation centres, parks, fire services, etc.

3.2 Bill 97, Helping Homebuyers, Protecting Tenants Act

The Province introduced new legislation under Bill 97, asserting that it will make life easier for both renters and home buyers. A summary of the proposed amendments to the Planning Act under Schedule 6 of Bill 97 and Township staff's associated comments are outlined below:

Fee Refund Provisions:

The effective date for planning application fee refunds where no decision is made within the statutory time periods that were originally in place for applications filed on or after January 1, 2023, is proposed to be changed to July 1, 2023.

The Province is proposing to create a Minister's regulation-making authority to be able to exempt municipalities from the fee refund provisions in the future if needed (no exemptions are being proposed at this time).

- **Staff Comment:** The delayed timeline to July 1, 2023 does not make much of a difference. The application approval timelines are still not realistic and the refund policies that have been implemented have not resulted in applications being processed faster. Timelines need to be extended to enable municipalities and applicants to work together to find mutually agreeable solutions.

Staff continue to not support refunding application fees for non-decision within the legislated timeline. There are many factors outside of a municipality's control that delay the processing of applications. Establishing refunds for non-decision within the legislated timelines also provides an incentive to applicants to submit substandard work, and delay responses, which will lead to denial of applications, appeals and backlogs at the Ontario Land Tribunal. Staff strongly urge the Province to consider the negative impacts and repeal the amendments related to refunding application fees altogether.

Additional Residential Units:

- Bill 23 put in place restrictions on the ability to require more than one parking space where additional residential units are permitted as of right. Bill 97 proposes to clarify that the existing provisions regarding parking spaces for additional residential units apply only to the second and third units on a property and that OPs and zoning by-laws can still require more than one parking space for the primary residential unit.

Staff Comment: Staff had requested this clarification as part of the Bill 23 consultation process and support this revision.

Regulation-Making Authority for Site Plan Control for 10 Units or Less:

Bill 97 proposed to create a regulation-making authority to prescribe specific circumstances where site plan control could be used for residential developments of 10 units or less. Bill 97 proposes to allow site plan control to be applied to developments of less than 10 units where the development is within 120 metres of a shoreline or 300 metres of a railway line.

- **Staff Comment:** Permitting site plan control in these areas makes sense in principle. However, it is unclear as to why only these two exceptions were made given that there are other types of conditions/contexts where proximity to feature would also seem to merit site plan review (e.g. proximity to highways, arterial roads or hazard lands).

Interim Control By-laws:

The notice and appeal timelines associated with interim control by-laws are proposed to be changed to provide 20 days for municipalities to give notice of the passing of an interim control by-law or a by-law extension (instead of the current 30 days) and for appeals to be made within 50 days of the by-law being passed. If passed, the policies would shorten the period of time within which a municipality is required to give notice of an interim control by-law (from 30 days to 20 days) and would enable an individual who received notice of the passing of an interim control by-law to file an appeal at the time of initial passing (rather than only at the time of extension).

- **Staff Comment:** The Township would need to be cognizant of the appeal potential for any interim control by-law that may be considered in the future. The Province will need to consider the impact this change could have on the number of appeals made to the Ontario Land Tribunal.

Minister's Zoning Orders (MZOs):

The Minister will be given the power to exempt lands that are the subject of MZOs from complying with provincial policies and OPs when other planning approvals are applied for, such as plans of subdivision. This gives the Minister the ability to address circumstances where an MZO permits residential uses in an area where the OP does not.

- **Staff Comment:** This will provide additional powers to the Province as zoning orders will not have to align with provincial plans or policies. This would undermine the intent of Provincial plans and policies and does not constitute a good planning practice.

Ministerial Authority to Require Development Agreements:

The Minister will be given the power to require landowners and municipalities to enter into agreements in relation to lands that have been assigned to a Provincial Land Development Facilitator. These agreements could include matters that go beyond what can be provided in either the Planning Act or Development Charges Act. The order has the same effect as an interim control by-law, only permitting existing uses to continue until agreements have been signed.

Changes to Employment Area Protections:

The definition of "area of employment" is proposed to be modified/narrowed to only include heavy industry and other employment uses that cannot be located near sensitive uses, (i.e., not suitable for mixed use) to scope the applicability of existing provisions which limit appeals of municipal refusals and non-decisions. Bill 97 proposes to exclude institutional uses and commercial uses which include retail and office uses not associated with primary industrial uses. Sites that are currently designated as

an 'area of employment' in an OP may no longer be identified as employment and no longer be subject to the employment area policies, particularly those pertaining to employment conversions.

- **Staff Comment:** Township staff support the notion of protecting areas of employment and providing a consistent more detailed definition across the province to reduce ambiguity and improve consistency. However, there are concerns with the proposed definition with respect to not including stand-alone office uses and ancillary retail commercial uses within an area of employment that can support (such as coffee shops, food services, gyms and other personal services). The proposed changes may undermine broader economic development objectives as they appear to limit the ability to create diverse employment areas with employment supportive uses that cater to the daily needs of the people working in employment areas.
- **Staff Comment:** The Township's current policies and permitted uses within employment areas will need to be carefully reviewed against this narrow definition of area of employment. The proposed policies as it relates to what can be deemed an area of employment appear to allow municipalities to maintain the status quo, provided it adopts OP policies that specifically authorize the continuation of institutional and non-employment related commercial uses that lawfully existed prior to the modified area of employment definition coming into effect.

Regulation-making Authority for New Provincial Policy Document:

Create regulation-making authority to modify the application of Provincial policy statements to decisions on particular matters to support the implementation of provincial policies on a case-by-case basis.

Schedule 4 of Bill 97 would provide for the appointment of up to four Deputy Provincial Land Development Facilitators.

4.0 Related Policies / Procedures

Should the new PPS and Bill 97 be brought into effect, the Township of Brock will need to update and bring the Township's OP into conformity with the provincial planning documents.

5.0 Financial / Budget Assessment

The only anticipated financial impacts associated with this report would be associated with updating the Township's policy planning documents to address the proposed policies if approved.

6.0 Climate Change Impacts

Long-term, comprehensive planning helps to address climate change impacts. Planning compact urban areas and protecting agricultural lands and environmental features supports the development of healthy and complete, sustainable communities, while efficiently using land and resources.

Some of the proposed policies in the PPS could encourage sprawl, piecemeal planning and fragmentation within the agricultural area, reducing the amount of agricultural land and negatively impacting environmental features.

7.0 Communications

The PPS and Bill 97 were both posted on the ERO's website for public review and comment.

No further public engagement is required on the Township's behalf at this time.

8.0 Conclusion

This report provides an overview of the proposed PPS (2023) and Bill 97 which have been released by the Province. Staff are seeking Council's authorization to submit this report as the Township's comments.

9.0 Recommendation

Be it resolved that Report 2023-DS-012 regarding the Proposed Provincial Planning Statement (2023) and Bill 97, be received; and

That staff be authorized to submit this report to the Province as the Township of Brock's comments on the proposed Provincial Planning Statement (2023) and Bill 97.