

**DATE:** May 8, 2023  
**REPORT NO:** PD-25-2023  
**SUBJECT:** **Proposed Provincial Planning Policy Changes**  
**CONTACT:** Dave Heyworth, Manager of Planning  
Brian Treble, Director of Planning & Building

**OVERVIEW:**

- The purpose of this report is to provide the Committee/Council with an overview of proposed Provincial planning policy changes and comments on key changes.
- The Province continues to propose Provincial planning policy changes (3 separate changes) under the objective of streamlining planning and removing barriers to build more homes faster,
- Bill 97 proposes changes to the Planning Act, More Homes Built Faster Act (Bill 23) and Ministry of Municipal Affairs and Housing Act with a commenting period ending May 6, 2023
- Staff's comments on Bill 97 which have been submitted to the Province to address commenting deadlines are attached as Appendix 1.
- There are proposed regulations, with a commenting period ending May 21, 2023, that would permit the use of site plan control for residential developments of 10 or fewer units under certain conditions relative to distance from shorelines and rail lines.
- The Province is proposing to merge the Provincial Policy Statement and Provincial Growth Plan for the Greater Golden Horseshoe in to one combined Proposed Provincial Planning Statement with a commenting period ending June 1, 2023.

**RECOMMENDATION:**

1. That, Recommendation Report PD-25-2023, regarding "Proposed Provincial Planning Policy Changes", dated May 8, 2023 be RECEIVED; and,
2. That, Township Council ENDORSE the comments in this report to be forwarded to the Province as the Township's comments on ERO postings # 0196822 and 0196813.

**ALIGNMENT TO STRATEGIC PLAN:**

**Themes #2 & #3**

- Support for Business and Employment Opportunities for Residents
- Strategic Responsible Growth

## **BACKGROUND:**

The Province has an ambitious objective to build 1.5 million new homes over the next 10 years in Ontario and to accomplish that they continue to amend planning policy and legislation.

In 2022, the Province of Ontario's Ministry of Municipal Affairs and Housing released two pieces of legislations which had significant impacts on the planning process in Ontario and in the Township, and significant impact on the overall operations of the Township. Bill 109, the More Homes for Everyone Act received Royal Assent on April 14, 2022 and Bill 23, More Homes Built Faster Act received Royal Assent on November 28, 2022.

On April 6, 2023, the government of Ontario introduced the *Proposed Provincial Planning Statement* and Bill 97, *Helping Home Buyers and Protecting Tenants Act*, 2023, with the goal of supporting the Provincial government's housing objectives.

The *Proposed Provincial Planning Statement* can be viewed on Environmental Registry of Ontario (ERO) under posting #019-6813 (<https://ero.ontario.ca/notice/019-6813>). The deadline for written comments is June 6, 2023.

The proposed Bill 97, can be viewed on the ERO under posting #019-6821 (<https://ero.ontario.ca/notice/019-6821>). The deadline for written comments is May 6, 2023.

A proposed regulation regarding the applicability of site plan control for residential buildings is on the ERO as a separate posting # 019-6822 <https://ero.ontario.ca/notice/019-6822> with a comment deadline of May 21<sup>st</sup>.

The law firm, Osler, has prepared a comprehensive comparison of the *Proposed Provincial Planning Statement* and Bill 97 that is available on their website at: <https://www.osler.com/osler/media/Osler/Content/PDFs/2023-PPS-comparison-Final.PDF>.

The Region of Niagara Planning staff facilitated discussions with area Planners to assist in the review of the proposed Provincial Policy planning changes. The Region prepared summary charts for these discussions which were used in large part for the creation of Attachment 1 and 2 to this report. The Region's assistance on this matter is appreciated.

## **CURRENT SITUATION:**

Currently, the Provincial planning documents fundamentally used in planning by the Township of West Lincoln are the Provincial Policy Statement, A Places To Grow Plan for the Greater Golden Horseshoe (Growth Plan) and the Greenbelt Plan.

The Province continues to make sweeping land use policy and regulatory changes with the objective of building more homes faster.

## **Proposed Bill 97**

### **Proposal & Comments**

A summary of changes proposed through Bill 97 and staff comments, where important, is provided as Attachment 1. This attachment represents the staff comments on Bill 97 which were submitted to the Province to meet the May 6, 2023 comment deadline.

### **Regulation-making authority for Site Plan Control for 10 units or less**

Bill 23 amended Section 41 of the *Planning Act* to limit the definition of "development" to the construction, erection or placing of a building or structure for residential purposes on a parcel of land with more than 10 residential units. Bill 97 proposes to create regulation-making authority to prescribe specific circumstances where site plan control could be used for residential developments of 10 units or less.

The proposed regulations, under separate ERO posting would permit the use of site plan for parcels of land:

- Any part of which is located within 120 metres of a shoreline; and
- Any part of which is located within 300 metres of a railway line.

These changes are proposed to come into effect immediately on filing of the regulation.

### **Comment**

While the regulation is a step in the right direction there needs clarification as to what constitutes a shoreline such as whether a shoreline pertains to a lake shoreline or watercourse shoreline like a river or stream. Also, if the Province thought it appropriate to use site plan control to deal with hazards and compatibility issue then this rational should have been extended to apply to proximity to manufacturing uses, airports as well as natural heritage features to implement environmental impact statement recommendations.

## **Proposed Provincial Policy Statement**

### **General**

The proposed Provincial Policy Statement replaces both the existing Provincial Policy Statement and Growth Plan. The changes are substantial in an attempt to streamline planning policy.

The effective date would be the date specified through an Order in Council approved by the Lieutenant Governor in Council pursuant to Section 3 of the Planning Act. To provide municipalities and other planning authorities an opportunity to understand and adapt to the policy changes, the Ministry is proposing to release the final policies for a short period of time before they take effect (targeting fall 2023).

### **Comment**

In eliminating the Growth Plan, the Province is eliminating a more comprehensive planning approach for the Greater Golden Horseshoe for the more generic Provincial Planning Policies that apply to all of Ontario.

While the Growth Plan represented a comprehensive planning approach, it did represent a prescriptive planning approach that for Township Planning staff was GTA focused and not a Niagara based Growth Plan, beyond the Niagara growth allocations. While the proposed changes provide an opportunity and flexibility to better plan for local interests, the level of comprehensive planning could be greatly reduced depending on local decision making and the pressures for urban sprawl are certainly increased.

Township Planning Staff are supportive of the concept of streamlining planning policy but not at the expense of good comprehensive planning and building complete communities. The proposed changes, in their entirety, turn back the clock on comprehensive planning, building complete attractive sustainable communities and protecting our agricultural lands,

Attachment 2 to this report summarizes the changes proposed through a proposed new PPS. The changes in policy are wide reaching and there are changes in the prescriptive language of the document throughout, relative to the use of words “shall” or “should” or “encourage”. In many cases language has become less prescriptive.

This report provides commentary on changes in policy direction that provide the most concern to staff.

### **Growth Management**

The growth schedules in the Growth Plan which allocate growth targets to the Niagara Region will be eliminated with the introduction of the new PPS. Currently the Region has established growth targets for each municipality based on the current targets in the Growth Plan.

The proposed PPS does state that where planning is conducted by an upper-tier municipality, the land and unit supply maintained by the lower-tier municipality shall be based on and reflect the allocation of population and units by the upper-tier municipality.

### **Comment**

The issue of not having allocated growth targets from the Province and reference to the upper-tier municipality for conformity will create several growth management issues.

The new PPS is expected to be in effect this Fall. Proclamation of parts of Bill 23 relative to the elimination of Regional Planning responsibilities is expected in the Winter of 2024, being January to March, 2024. The timeline for local Official Plan conformity is November 4, 2023. Local Official Plans will need to conform with the Region’s Niagara Official Plan for conformity purposes, which in many cases will be more restrictive than the proposed PPS as the Niagara Official Plan was developed under the umbrella of the existing PPS and Growth Plan. After proclamation and the dissolving of Regional planning responsibilities, municipalities will be able to establish their own growth targets provided certain Provincial land requirements are met. Local municipalities, such as West Lincoln have done their long range planning based on Master Plans incorporating the Region’s growth allocations.

Providing opportunities for local changes in growth allocations could impact the planning and funding of infrastructure to support growth which will only slow housing development not speed it up.

### **Housing**

While Provincial Policy shall require municipalities to provide for an appropriate range and mix of housing options and densities to meet projected needs, there are no specific affordable housing policies addressing affordable housing targets or requiring municipal policy strategies to do so.

### **Comment**

Addressing affordable housing requires a complex multi-disciplinary strategy of which land use planning is one element. Building more homes faster and increasing supply to address housing affordability may lower prices to an extent but is not the land use policy solution on its own or coupled with facilitating the development of secondary units. Provincial policies should establish a framework for a coordinated, comprehensive approach to address affordable housing. Relying on developers to build cheaper housing because of reduced costs for land is not enough of a strategy.

### **Settlement Area Boundary Expansions**

The Township just completed settlement area boundary expansions to provide enough land partnered with appropriate densities to provide the opportunity for a mix of housing types for the next 30 years.

The Province is now requiring enough land for no less than 25 years but more importantly proposed policies no longer require settlement area boundary expansions to occur through a municipal comprehensive review (MCR). Further, proposed Provincial Policy would no longer require the land need for the expansion to be met.

### **Comment**

The Township has already addressed conformity with the Region's Niagara Official Plan on this matter. While the Township's Official Plan can be more restrictive than the PPS on this matter, the less restrictive Provincial Policy could be used as a basis for further possible expansion requests in the Township and pressures for urban sprawl and unnecessary development of agricultural lands.

### **Employment Areas and Employment Lands**

The Province is proposing changes to the types of uses allowed on Employment Lands outside Employment Areas as well as within Employment Areas. Employment Areas will be more limited to manufacturing type uses and the Province is allowing greater flexibility for uses on Employment Lands outside Employment Areas provided certain criteria are addressed. It should be noted municipalities cannot be more restrictive relative to permitted uses on Employment Lands outside Employment Areas.

The proposed Provincial Policies also make converting Employment Lands and lands within Employment Areas easier from a Provincial Policy perspective. The conversion of lands within an Employment Area would no longer require a MCR.

## Comments

The Township will have to do an assessment of its Employment Lands outside the Employment Areas to determine policy issues which will need to be addressed as part of the local Official Plan conformity exercise.

More flexible Provincial Policies on employment land conversions will inevitably create pressure within the Township to convert lands. The Township has just approved a framework for growth incorporating infrastructure planning. Conversion of Employment Areas was not envisioned by this framework. The Province needs to maintain strong policies on the conversion of Employment Lands particularly within Employment Areas. It is important to ensure municipalities will have sufficient lands for employment purposes as part of developing complete communities. Communities with job opportunities are more attractive to move to, providing more impetus to build homes within that community.

Local municipalities should be allowed to be more restrictive than provincial policies to address local planning issues of concern from a local context.

## Agriculture

The importance of agriculture to the economy and social fabric of West Lincoln is well known. The Province is proposing changes that will allow up to two secondary units within or in close proximity to a dwelling in the agricultural area with potential for up to three rural residential lot severances per agricultural parcel.

The proposed new lot severance policy is as follows:

1. Residential lot creation in prime agricultural areas is only permitted in accordance with Provincial guidance for:
  - a. new residential lots created from a lot or parcel of land that existed on January 1, 2023, provided that:
    1. agriculture is the principal use of the existing lot or parcel of land;
    2. the total number of lots created from a lot or parcel of land as it existed on January 1, 2023 does not exceed three;
    3. any residential use is compatible with, and would not hinder, surrounding agricultural operations; and,
    4. any new lot:
      - i. is located outside of a specialty crop area;
      - ii. complies with the minimum distance separation formulae;
      - iii. will be limited to the minimum size needed to accommodate the use while still ensuring appropriate sewage and water services;
      - iv. has existing access on a public road, with appropriate frontage for ingress and egress; and
      - v. is adjacent to existing non-agricultural land uses or consists primarily of lower-priority agricultural lands.

More importantly the Province is proposing that municipalities are not allowed to be more restrictive than this approach and must include these consent policies in their Official Plans and implement appropriately by zoning requirements.



### **Comment**

The Township has taken a comprehensive approach in planning for Agricultural lands within the Township while providing for agriculturally related uses and on farm diversified uses. In addition, an important part of this planning involves the protection of agricultural lands for long term food supply. Preventing the fragmentation of agricultural lands and establishment of non-farm residential lots is key to both protecting the land base and agricultural operations by minimizing land use conflicts.

The Province should eliminate the policy mentioned above in this report. West Lincoln had many retirement lots created prior to 2005 which provides the opportunity for this policy to apply.

It is Planning Staff's opinion this policy fundamentally goes against good planning for the agricultural land base and economy. Further these lots would not contribute in any significant way to increasing the housing supply and certainly not affordable housing.

### **Natural Heritage**

The Natural Heritage policies under proposed Section 4.1 and related definitions remain under consideration of the Provincial Government. Once the proposed changes are ready for review and input, they will be made available through a separate posting on the ERO.

### **Comments**

Planning Staff await the proposed changes. The Province needs to be mindful of local Official Plan conformity exercises and compliance with the Region's Niagara Official Plan.

Natural Heritage planning is complex, particularly because of intricate policy differences for natural heritage policy between the various Provincial Plans. The Province should provide a consistent simpler policy approach while still providing the same level of protection

### **Watershed Planning**

The Province is encouraging watershed planning but the policies are a substantial change from the watershed led planning approach in the Growth Plan.

### **Comment**

While sub watershed plans are expensive and time consuming this type of planning is important in protecting the natural environment system. The Province should ensure this type of study takes place, particularly for large greenfield areas and expansion areas.

### **Timing Comments**

As mentioned the timing of the expected application of new PPS policies versus proclamation relative to Regional Planning responsibilities will make the local Official Plan conformity exercise more complex and time consuming.

Small Planning Departments have limited staff resources. Dealing with complex policy issues while dealing with regular development applications and meeting Bill 109 timelines will be challenging. The Province should extend the deadline for local Official Plan conformity.

Further relative to Bill 109, the Province should extend the timeline for decisions on development applications till after local Official Plans have been approved.

#### **FINANCIAL IMPLICATIONS:**

Given the timing and magnitude of Provincial Planning Policy changes and Bill 109 decisions on planning applications, the Planning Department may need assistance from consultants or additional staff assistance for the local Official Plan conformity exercise.

#### **INTER-DEPARTMENTAL COMMENTS:**

The proposed Provincial Planning policies have been reviewed by the Township's Planning Department with input from the Region's Planning Staff and Area Planners.

#### **CONCLUSION:**

Township Planning Staff are supportive of the concept of streamlining planning policy but not at the expense of good comprehensive planning and building complete communities. The proposed changes, in their entirety, turn back the clock on comprehensive planning, building complete attractive sustainable communities and protecting our agricultural lands. Further, local municipalities should be allowed to be more restrictive than Provincial Policies to address local planning issues of concern from a local context

#### **ATTACHMENTS:**

1. Summary of Bill 109 Changes and Comments
2. Summary of Proposed Provincial Planning Statement Changes

**Prepared & Submitted by:**



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**Approved by:**



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CAO



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