



Regular Council Meeting

To:	Mayor and Council
Date:	May 15, 2023
From:	John F. Connolly, Executive Director, Planning & Development
Report Number:	Planning 2023-24
Subject:	Bill 97 – Helping Homebuyers, Protecting Tenants Act, 2023 – ERO Posting Comments

Recommendations:

1. That Council receive Report Planning 2023-24 Bill 97 – Helping Homebuyers, Protecting Tenants Act, 2023 for information;
2. That Council direct Staff to provide correspondence (a letter to the ERO) outlining Council's concerns with respect to Bill 97; and
3. That a letter outlining Council's comments be submitted to the Environmental Registry of Ontario (ERO) as the Township's formal written submission regarding Bill 97 prior to the commenting deadline of June 5, 2023.

Overview

On April 6, 2023, the Province introduced Bill 97, the Helping Homebuyers, Protecting Tenants Act, 2023 representing the province's most recent installment of wide ranging and sweeping changes to the land use planning process in Ontario. Bill 97 received first and second reading in April and is currently being considered before the Standing Committee on Heritage, Infrastructure and Cultural Policy.

Previous Provincial legislation (Bill 109 & Bill 23) contained numerous changes that are still being implemented at the local level (refer to Planning Report 2023-23 on today's agenda). These initiatives made substantial and significant changes with how planning and development occurs in the Province, especially at the local level. Staff provided a series of Reports in 2022 and 2023 outlining the legislative impacts and implementation requirements of these proposals. Bill 97 builds on those changes, amends existing legislation (again) and proposes a new set of land-use planning policies that will govern planning at the provincial, upper- and lower- tier levels.

Most significantly, Bill 97 follows up on the Province's decision to combine and replace the existing Provincial Policy Statement and Growth Plan for the Greater Golden Horseshoe (ERO Posting #019-6177). This is the subject of this Report.

Background

Part of Bill 97 will make a number of minor changes to existing legislation that were mostly “clean-up” of previous legislated changes including the implementation date of July 1, 2023 as outlined in Bill 109 (i.e., fee refunds - see Report Planning 2023-23 on today’s agenda).

The most locally relevant aspect of these changes (noted above) is the introduction of new Ministerial Powers that will require landowners and municipalities to enter into agreements where the Provincial Land Development Facilitator has been appointed. According to Bill 97, these agreements could go beyond just provisions outlined in the Planning Act and Development Charges Act. These new powers also allow the Minister to exempt lands that are subject to a Minister’s Zoning Order (MZO) from complying with provincial policies and official plans when other planning approvals are being applied (i.e., such as plans of subdivision). This means that the Minister now has the authority to address situations where an MZO permits residential development in an area where the Official Plan (or the previous PPS/Growth Plan) did not. For Cavan Monaghan, this is potentially relevant to the MZOs approved by the previous Council.

The current Environmental Registry of Ontario (ERO) #019-6813 (see Attachment No. 1) was posted on April 6, 2023 for a sixty (60) day commenting period ending just before midnight on June 5, 2023. The province has also provided a fact sheet outlining anticipated implementation and timing (see Attachment No. 2).

Practically, for Township Staff, the sixty (60) day commenting period is actually reduced to thirty-three (33) days. This abridged timing is due to the deadline for reports to be completed to meet the May 15, 2023 Council rather than having this come forward to the June 5, 2023 Regular Council Meeting. Waiting until the June 5, 2023 meeting would not give Council (and Staff) enough flexibility to make any changes (should Council choose to do so) without running the risk of losing the window of opportunity to submit comments to the ERO Posting.

This posting, its proposals and implementation represent a profound change for how land use planning in the Province has been governed since the first Provincial Policy Statement (PPS) in 1996 and the original Growth Plan for the Greater Golden Horseshoe in 2005. If approved, the new PPS (see Attachment No. 3) will likely come into force this Fall and all planning decisions made on or after that date must be “consistent with” the new policies.

Proposed Provincial Policy Statement - Summary

According to provincial briefing documents, this new policy document (Provincial Planning Statement (2023) – see Attachment No. 3), is intended to make land use planning easier to follow. By combining these two (2) existing documents (PPS and Growth Plan), the intent is to simplify land use planning rules and make it easier to build more homes. The Province maintains that by streamlining land-use planning policy, growth in large and fast growing municipalities will be supported and more homes will be allowed to be built in rural areas. It will also give municipalities greater flexibility to expand settlement area boundaries at any time (not just through a municipal comprehensive review (MCR) or the one-time 40 ha expansions rules now in place).

This is being achieved by making planning policies simpler and more flexible especially opening up policies that will allow more housing to be built in rural areas and on the edges of settlement areas (and cities).

Bill 97 & Provincial Policy Statement (2023) - Highlights:

Housing

- Identify large and fast-growing municipalities are identified as strategic growth areas;
- Remove intensification and density targets as a mandatory requirement for all municipalities;
- Maintain established Growth Plan targets to 2051 but allow municipalities to establish higher forecasts;
- Require planning for a 25-year growth horizon;
- Expand definition of housing options;
- Remove definition of affordable housing (i.e., 30% income rent/own criteria); and
- Increase additional housing options for rural housing (i.e., permitting up to three new residences on existing property – multi-generational farming families, enhance lot creation).

Settlement Area Expansion

- Remove need for a municipal comprehensive review (MCR) to expand boundary;
- Expand settlement area boundaries any time (can be application driven); and
- Permit identification of new settlement areas (different from previous rules of no new settlement areas in Growth Plan).

Employment Protection & Conversion

- Protect employment areas from permitting commercial uses not associated with primary employment use and institutional uses;
- Clarifies circumstances of employment conversions; and
- Removes previous Provincially Significant Employment Zones (PSEZ).

Schools

- Direct greater collaboration between planning authorities and school boards; and
- Permit innovative approaches to designing schools.

Land Use Compatibility

- Keep protection of existing or planned industrial and manufacturing and other major facilities;
- Increase uses permitted in employment areas;
- Remove requirement for proponent of sensitive land uses to demonstrate need/evaluate alternative locations where avoidance of adverse effects is not possible; and
- Encourage industrial, manufacturing & small-scale manufacturing in strategic growth areas and other mixed-use areas where frequent transit service available.

Natural Heritage

- Natural heritage policies and related definitions are still under consideration;
- Possible relaxed/reduced considerations with respect to housing supply; and

- Balance housing needs with resource use and management.

Agriculture

- Eliminate alternatives evaluations for settlement area expansions;
- Less (possibly) protection of specialty crops;
- Eliminate requirement to use provincially mapped Agricultural System;
- Permit additional dwelling units on farm operations;
- Permit land-extensive energy facilities (i.e., solar, battery storage); and
- Eliminate alternative evaluations for aggregate extraction rehabilitation (not require complete rehabilitation to agricultural condition).

Minister's Powers

- Authority to make regulations and orders related to planning functions that used to be only for local municipalities;
- Municipalities cannot enact policies that are more restrictive than PPS policies;
- Increase authority and role for Minister's Zoning Orders (MZOs); and
- Require all municipal decisions including zoning by-laws and permitting processes must be consistent with PPS – even before a municipality's Official Plan has been updated.

Analysis

Unfortunately, these wide-ranging and sweeping changes to the planning system continue to challenge how Staff can provide Council with a comprehensive breakdown and analysis as to the local implications and gauge the impacts of such policy changes. The Province continues to introduce legislative and policy changes that build upon each other and leave local municipalities struggling to implement measures before pivoting to the next set of changes. To complicate matters further, in this set of changes, the Province identifies gaps in the key information being provided (i.e., natural heritage policies) within an abbreviated time frame in which to provide comments to the ERO Posting. As a result, Staff's ability to analyze and provide detailed recommendations continues to be hampered and, as such, will focus on those highlighted changes with a meaningful local context and impact.

There are a number of instances where Staff may recommend to Council it be supportive of some of the proposed legislative changes and (in some cases) possibly encourage some of the amendments and outright elimination of other land-use planning policies in the new proposed PPS (2023). However, in the absence of natural heritage policies which are still under consideration, any analysis will be flawed and incomplete. Staff are challenged to provide a meaningful analysis weighing the pros and cons of these legislative and policy considerations because some of the implications are unknown and/or yet to be determined.

From a discipline perspective, planners provide professional opinions to clients and decision makers based on a number of factors not the least of which considers the balance of social, economic and environmental considerations. These are the three pillars of sustainable development first published in 1987 in the Brundtland Report (Our Common Future). The suite of changes proposed in Bill 97 and the PPS (2023) are

extensive, major and in some instances represent a significant departure from how land-use planning has been practiced in the Province for past four decades.

Staff have examined the foregoing in light of the most recent local land-use planning exercises, initiatives and decisions including: approval of the City of Peterborough Official Plan (with modifications); participation and contributions to the County Municipal Comprehensive Review (Official Plan MCR); development of the original and updated Growth Management Strategy (GMS) with Watson & Associates; ongoing Water & Wastewater Master Servicing Study; approval of three (3) Minister's Zoning Orders; and various development and infrastructure proposals concerning the airport, airport lands, cross-border servicing and possible annexation.

As a result, Staff are providing the following recommendations for Council's consideration to be included in a letter as its formal submission to the ERO:

- The Township supports the removal of mandatory intensification and density targets as they have proven to guide but also be a barrier to consistent growth and land-use planning policy as illustrated through the most recent County of Peterborough MCR;
- The Township supports the ability to provide residential intensification through the conversion of commercial and institutional buildings for residential uses;
- The Township supports the expansion of the definition of housing options to provide a range of housing arrangements and forms;
- The Township does not support the elimination of the definition of "affordable" as this term is used in its current Official Plan and the use of inclusionary zoning (which is not in the OP) may not provide the much needed housing options at the local level;
- The Township is concerned that multi-residential development on rural lands may result in the loss of agricultural land and land use compatibility through lot creation and permission of up to two additional residential units per rural lot;
- The Township supports the flexibility to expand the settlement area boundary outside of an MCR but is concerned of the possible implications of removing a "needs test" and criteria as part of that expansion as this may create undue pressure on existing settlement areas and encourage the creation of possible new serviced settlement areas in the Township including the impacts of expansion on agriculture;
- The Township supports the promotion of mixed-use development while promoting the protection and conversion of employment areas;
- The Township supports the explicit collaboration of school boards and planning authorities to ensure schools are planned as part of development;
- The Township is concerned about removing the requirement that a proponent demonstrate need or look at alternatives when siting sensitive land uses to avoid adverse effects;
- The Township supports strengthening the list of prohibited uses in employment areas;
- The Township does not support the significant weakening of the Natural Heritage System established through the Growth Plan;
- The Township is concerned that in the absence of specific natural heritage policies and regulations, the PPS only focused on balancing natural resource use and management with housing supply and there has been the removal of reference to conserving biodiversity and protecting ecological processes;

- The Township is concerned about the possible threat to prime agricultural land lost through settlement area expansions that do not fully consider alternative locations of expansion outside of a comprehensive review which may lead to the loss of prime agricultural land;
- The Township supports the elimination of requiring the use of the provincially mapped Agricultural System;
- The Township does not support permitting up to two additional residential units in addition to the principal dwelling in an agricultural operation in prime agricultural area or the creation of up to three residential lots from an existing agricultural parcel;
- The Township does not support the expanded Ministerial authority to make orders that provincial policy, plans and official plans do not apply with respect to a license, permit, approval or permission;
- The Township does not support restricting its ability to enact more restrictive policies than the PPS 2023 as local autonomy is important;
- The Township supports the inclusion of MZO's as additional projected growth to be included in the municipality's next official plan update;
- The Township does not support the implementation provision that decisions must be consistent with the PPS 2023 before such time as its Official Plan and Zoning By-law have been updated; and
- The Township continues to be of the opinion that these sweeping changes along with other recent legislated amendments (i.e., Bill 109 & 23) continue to introduce uncertainty in the local land use planning process while placing a financial burden on municipal resources (financial, human resources) already dealing with operational constraints.

Staff anticipate even more announcements and changes to various aspects of the land use planning process(es) as well as supporting legislation in the future. Staff are of the opinion that these policies and measures will have a direct and measurable impact on the natural heritage and agricultural landscape of the Township. There will be financial implications resulting from rural development that could threaten economic associated with its agricultural sector, the potential loss of agricultural land, food insecurity and impacts to local jobs if employment and agricultural lands are converted to residential.

Financial Impact:

From an organizational standpoint, there will be increased workloads, reduced timelines and significant impact on municipal resources (human and financial) as the Township responds to increased demand for its services. In addition, there will be increased demand on servicing infrastructure as well as meeting the demand of a growing and developing urban and rural population requiring hard and soft services.

Attachments:

Attachment No. 1 – ERO Posting #019-6813 Proposed PPS 2023

Attachment No. 2 – Implementing Bill 97 - Summary

Attachment No. 3 – Proposed Provincial Planning Statement

Attachment No. 4 – ERO Letter with Township Comments

Respectfully Submitted by,

Reviewed by,

John F. Connolly
Executive Director, Planning & Development

Yvette Hurley
Chief Administrative Officer

Attachment No. 1 – ERO Posting #019-6813 Proposed PPS 2023

Attachment No. 2 – Implementing Bill 97 - Summary

Attachment No. 3 – Proposed Provincial Planning Statement

Attachment No. 4 – ERO Letter with Township Comments