

**To:** Warden and Members of County Council

**From:** Director of Community Planning

## Review of A Place to Grow and Provincial Policy Statement

### RECOMMENDATIONS

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1. That the Director of Community Planning, in consultation with other County staff and stakeholders as required, prepare and submit the County of Oxford's initial comments in response to the Provincial consultations on the Review of A Place to Grow and Provincial Policy Statement, as generally outlined in Report No. CP 2023-126;
2. And further, that Report No. CP 2023-126 be circulated to the Area Municipalities for information.

### REPORT HIGHLIGHTS

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- The Province has released a proposed draft of the 'Provincial Planning Statement' (Proposed PPS), which is intended to replace the current Provincial Policy Statement (PPS, 2020) and 'A Place to Grow'– Growth Plan for the Greater Golden horseshoe (APTG). The Province is also proposing a number of legislative and other changes through Bill 97 the *Helping Homebuyers, Protecting Tenants Act*. This report provides a high level summary the key changes to the PPS and legislation, regulations and other matters being proposed.
- The new draft PPS document proposes substantive and wide ranging changes to the current provincial land use planning direction contained in the current PPS, 2020. While there appear to be some positive changes, a number of other proposed policy changes are extremely concerning (i.e. increased opportunities for rural residential lot creation, reduced justification and direction for settlement expansions etc.), contradictory, confusing and/or lacking in clarity.
- Planning staff are in the process of preparing a detailed formal submission to the Province on the various proposed changes and are seeking Council's direction to proceed with the preparation and submission of those comments to the Province, and to engage with municipal organizations (e.g. WOWC, AMO, ROMA) and other stakeholder groups with a view to providing consistent and coordinated comments and messaging on key matters of shared concern.

### Implementation Points

The recommendations contained in this report will have no immediate impacts with respect to implementation. However, the uncertainty they introduce will further delay implementation of various initiatives to address housing supply and other important planning objectives.

Further, if implemented as proposed, a number of the proposed legislative, policy, and other changes will have significant implications for various ongoing County projects (i.e. secondary planning, infrastructure master plans, Official Plan updates etc.), as well as the existing Official Plan policies and related implementation tools and measures. As such, if approved, various County and Area Municipal land use related policies, processes and standards will likely need to be comprehensively reviewed and updated to ensure consistency with the new Provincial direction.







### Financial Impact

If enacted, a number of the proposed legislative and regulatory changes identified in this report could have significant financial impacts for the County and Area Municipalities, including the potential need for additional staffing and other resources to address and/or implement the various changes.

### Communications

Communication is proposed through the inclusion of this report on the County Council agenda and related communications and circulation to the area municipalities. This report includes input from the County’s Manager of Housing Development on various proposed changes related to affordable and/or attainable housing.

### Strategic Plan (2020-2022)

					
<b>WORKS WELL TOGETHER</b>	<b>WELL CONNECTED</b>	<b>SHAPES THE FUTURE</b>	<b>INFORMS ENGAGES</b>	<b>&amp; PERFORMS DELIVERS</b>	<b>&amp; POSITIVE IMPACT</b>
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## DISCUSSION

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### Background

On April 6, 2023, the Province released additional legislative and policy changes, including a proposed new draft Provincial Planning Statement document, as part of an ongoing series of changes initiated by the Province to implement annual Housing Supply Action Plans. The proposed draft of the ‘Provincial Planning Statement’ is intended to replace the current Provincial Policy Statement (PPS, 2020) and ‘A Place to Grow’ – Growth Plan for the Greater Golden horseshoe (APTG).

The PPS, 2020 is the primary policy document for providing provincial direction on land use planning and related decision making across the Province. In some areas (e.g., Greater Golden Horseshoe), the PPS, 2020 is also overlain by provincial growth plans which provide more specific and/or detailed provincial direction on land use matters for a particular geographic area (e.g., APTG). The Province is currently seeking input on a new draft Provincial Planning Statement that is proposed to replace the existing PPS, 2020 and APTG plan.

The current PPS, 2020 has evolved considerably from the original 1996 document through regular reviews and updates (i.e. approx. every 5 years) that involved extensive and meaningful consultation with, and input from, municipalities (including extensive input from Oxford County on many key policy areas) and other stakeholders. As a result, the current PPS, 2020 policies have had the benefit of being informed and improved by years of municipal input, practical application and experience, together with OMB/OLT and legal decisions. As such, the current PPS, 2020 policies are, for the most part, concise, responsive, and effective and generally enable and support the achievement of local planning and community objectives in Oxford.

That said, in the County's comments submitted in response to province's preliminary, high level, consultation on potential changes to the PPS in Q4 of 2022 (as outlined in [CP 2022-413](#)) Planning staff did identify a number of policy areas where further refinements and/or updates could potentially be of benefit.

The Province has released a proposed draft of the new Provincial Planning Statement on the environmental registry for a 66 day commenting period that ends on June 5, 2023. Information is available on the environmental registry under posting [019-6813](#).

## **Commentary**

It is noted that the County and various other municipalities, public bodies and organizations submitted comprehensive comments and suggestions in response to the previous (and ongoing) phases of the Province's housing supply action plan consultations. However, to date, it does not appear that the Province has made any substantive changes or adjustments to the proposed legislation or associated regulations in response to the feedback provided.

### **a) Proposed PPS Changes**

The new draft Provincial Planning Statement is a substantial departure from the existing PPS, 2020 policy framework in terms of both policy structure and direction, with the structural changes appearing to be largely owing to the Province's attempt to integrate the APTG policies into the document. While it appears that many of the proposed changes could have merit if properly and clearly articulated (i.e. largely those adapted from APTG), there are also a number of proposed changes that are of significant concern, contradictory, and/or lacking in clarity.

The Province's stated outcome of this PPS review is to determine the best approach to enable municipalities to accelerate the development of housing and increase housing supply, including rural housing, through a more streamlined, province-wide land use planning policy framework.

To achieve this objective, the Province would be better served by maintaining the growth management policies from the existing PPS, 2020 that have worked well, while integrating the more detailed growth related policies and terminology from APTG, where necessary and/or beneficial. Overall, the incorporation of policy language from the APTG appears to place a greater focus on increasing density, intensification, housing options, mix of uses and the development of complete communities. However, the format and structure of the proposed policy changes creates uncertainty and confusion with respect to their application, particularly in terms of which policies apply in various municipal and geographic contexts (i.e. only in large and fast growing municipalities - LFGMs, both LFGMs and other municipalities, or only outside LFGMs), how the policies are all intended to work together when the PPS is read in its entirety, and which policies are intended to take precedence. Further, a number of the policy approaches appear to contradict one another (i.e. achieving density/intensification, efficient use of land and services and protecting agricultural land, while at the same time reducing the justification for settlement expansions and allowing more rural resident lot creation in agricultural areas).

The intent of this initial report is to inform Council of the key changes in the new draft document and obtain direction to proceed with the preparation and submission of comments on the matters of concern to the County and Area Municipalities as soon as possible, and to engage with municipal organizations (e.g. WOWC, AMO, ROMA) and other stakeholder groups (e.g. OFA) with a view to ensuring consistent and coordinated comments and messaging on key matters of shared concern. It is hoped that by taking a more expedited and coordinated approach to the submission of comments than for past submissions, it will increase the likelihood that the County's key concerns will be acknowledged and addressed by Province.

### Areas of Major Concern

The two areas of proposed policy change that currently appear to be of greatest concern are as follows:

#### **Proposed Agriculture policies**

The majority of the agricultural policies remain relatively unchanged from the current PPS, 2020 and Planning staff are pleased to see that the province is proposing to specifically recognize 'additional residential units' as a permitted use on a farm. However, the proposed policy that would require municipalities to allow for up to 3 residential lots to be severed from a 'farm' property, subject to meeting certain limited criteria (i.e. MDS, lot size limited to maximum necessary for use and services, located on lower quality soils or adjacent to non-agricultural uses etc.) is of major concern.

This proposed policy demonstrates a profound lack of perspective, context, foresight, and understanding of land use planning, economics and agriculture. If approved, this policy would have a significant and irreversible impact on agricultural land and operations and the long term success and viability of agriculture in the County and the Province as a whole.

The following information will assist in putting the potential impacts of this proposed change into perspective, in the Oxford County context:

- There are approximately 6,200 properties zoned for agriculture in Oxford. If it were assumed that each such property could sever 3 lots, this would equate to the potential creation of approximately 18,600 additional rural residential lots. Assuming each of these lots was between 0.4 to 0.8 ha (1-2 ac) in size, this would represent a potential loss of roughly 5-10% of Oxford's total remaining tillable land area (which in Oxford is virtually all Class 1-3 agricultural land).
- This same land area would accommodate between 185,000 to 370,000 new dwellings in a fully serviced urban or rural settlement, based on typical densities for new residential development. For comparison, all of Oxford currently contains only 50,000 households (i.e. dwelling units).
- Oxford tends to have fewer, but larger, farms than many other areas of Ontario. So, the potential percentage of agricultural land loss in Oxford is likely toward the lower end of the spectrum. However, if Oxford's potential 5-10% loss of tillable agricultural land were to be applied province wide, the total agricultural land loss that could potentially result from the implementation of this policy would have a significant impact on the agricultural industry.
- Allowing such scattered rural residential development would also vastly increase potential for conflict with agricultural operations, limit potential locations for new and/or expanding livestock operations, and increase demand on rural services.
- The severance of a lot for residential purposes (other than for a farm dwelling rendered surplus as a result of consolidation) has not been permitted for almost 20 years (2005 PPS) and as such, no one who currently owns or purchases a farm should have any expectation of their ability to create a vacant rural residential lot.
- As demonstrated above, this proposed policy would result in an enormous loss, and extremely inefficient use of prime agricultural land, while doing nothing to increase the supply of affordable/attainable housing in rural areas. Further, as there are numerous other ways to increase the supply of rural housing that are more affordable/attainable, more sustainable, and also support and/or not negatively impact agricultural land and operations (i.e. ARUs, splitting of existing rural residential lots, expansion of fully serviced rural settlements, minor infilling rounding out of other rural settlement areas etc.), this proposed policy direction is not necessary.
- Oxford County has repeatedly advised the Province that our recently adopted agricultural policy amendments (which have now been awaiting Provincial approval for almost a year) could serve as a template for how to substantially increase the number and range of rural housing and economic opportunities without negatively impacting agricultural land or operations. According to staff estimates the additional housing opportunities provided for in the County's proposed policies would allow for the population of the County's rural municipalities to roughly double.

For the above noted reasons, it is proposed that the County strongly object to this proposed change to the Province's agricultural policies.

## **Proposed Growth Management and Settlement Expansion Policies**

Another major area of concern is the proposed change to the planning horizon (from a maximum of 25 years of growth land to a minimum) and loosening of the required justification for settlement area expansions. However, it is noted that growth planning is proposed to continue to be based on upper tier forecasts and allocations to area municipalities.

Oxford and various other municipalities have previously requested that the Province consider providing some additional flexibility to facilitate settlement expansions in certain circumstances, where it is reasonably required to properly plan for and accommodate forecasted growth and increase housing supply. As such, the proposed changes noted above may be an attempt by the Province to address those comments. However, the proposed changes appear to go too far and do not provide sufficient direction and certainty to be able to effectively plan for and direct growth, which may also serve to undermine other key provincial and local planning objectives, including but not limited to:

- ensuring the efficient use of land and infrastructure;
- Protecting agricultural land for long term agriculture and limiting impacts on agriculture and other natural resources; and
- encouraging increased densities, intensification, range and mix of housing and other uses necessary to support complete communities etc.

Some additional points with respect to this proposed change are as follows:

- Having a reasonable maximum time frame for planning for growth and clear justification for settlement expansions is necessary to provide certainty and consistency in planning for growth and infrastructure and other public services (i.e. schools and other public facilities) and for building complete communities (i.e. to achieve the necessary densities and mix of housing and other uses);
- It is important that settlement expansions be either initiated or approved by a municipality, and that a municipal decision to not support a privately initiated application to expand a settlement not be subject to appeal (to the OLT), as has been the approach under the current Planning Act. The alternative would lead to more speculation and uncoordinated/inefficient settlement expansions, due to continuous pressure from development proponents to expand settlements and infrastructure in multiple directions. This continuous pressure would distract municipalities from completing the necessary growth and infrastructure planning that is important to sustainably accommodate growth and build great communities.

In summary, it is proposed that the County request that the Province modify the proposed settlement expansion policies to address the above noted concerns, while incorporating some additional flexibility for settlement expansions, as previously requested by the County.

### Potential for a Coordinated Municipal Response

Based on initial discussions with senior planning staff from various other County's and Regions, there appears to be general agreement that the two areas of major concern identified above are by far the most concerning and that there is merit to working toward a coordinated Province-wide municipal response with a view to ensuring the Province acknowledges and addresses these and other key concerns.

### Other Areas of Policy Concern

While the above noted policy changes appear to be the most egregious and critical to long-term land use planning in the Province, there are a broad range of other proposed policy changes that are also of concern. These concerns largely relate to various policies that appear to conflict with, or undermine one another, confusing language and an overall general lack of clarity.

As previously noted, Planning staff are in the process of reviewing and assessing the various proposed changes and expect to be in a position to provide more detail on potential impacts and implications for the County and Area Municipalities by late May. However, in the interim, the following provides a brief summary of the more notable proposed changes:

- A number of changes from 'shall' to 'should', particularly with respect to certain growth planning policies (i.e. softening requirements);
- New policies and/or definitions for Strategic Growth Areas, Major Transit Station Areas, Higher Order Transit Corridors, Major Trip Generators, Frequent Transit Service etc.;
- More specific references to coordination of planning for schools and daycares with planning for growth;
- Removal of 'Affordable Housing' as a defined term from the PPS. This appears to be consistent with Bill 23 and the Province's approach to rely simply on average market rent, or 80% of the average resale value of a home, when it comes to determining the parameters for affordability. Consultation with Provincial staff indicates that the removal of the definition is intended to reduce duplication in planning and housing processes and emphasize that the need to provide affordable housing is expected to be covered through planning for a range of 'housing options'. The change is also intended to promote greater collaboration between Housing Service Managers and planners. However, it remains unclear as to whether municipalities may continue to utilize a local income-based affordability test when determining eligibility requirements for local affordable housing programs. Greater clarification is necessary to understand if local municipalities will be able to apply income targets to affordable housing programs, based on a review of local needs.
- Proposed new terms for 'housing options' and 'additional needs housing' fail to provide clarity as to how affordability fits into the proposed housing framework. A clearer distinction between 'Additional Needs Housing' and 'Housing Options' is necessary to more appropriately define and target supportive and affordable housing options.

- Changes to the employment use policies that would now appear to require municipalities to allow for certain employment lands (i.e. that are not defined as an ‘employment area’) to be developed/redeveloped for more mixed use, including residential, but also introduce new policies that require the identification and protection of ‘employment areas’ for exclusively employment use, based on provincial criteria, as well as for the planning of transition areas surrounding such ‘employment areas’.
- Climate related policies appear to have been largely retained, but centralized into a more focused subsection of the document, rather than threaded throughout the PPS as before. However, some specific mentions have also been retained in certain parts of the document (e.g. natural hazards).
- A number of policies in the current PPS, 2020 that have been relied on in Oxford (i.e. vitality and viability of downtowns, ensuring growth adjacent to settlements would not prevent/compromise efficient and logical settlement expansion, etc.) to support local planning objectives appear to have been eliminated and it is not clear to what extent the new policies could be leveraged to achieve similar objectives.

Staff also note that the Province withheld an updated version of the natural heritage policies from the draft PPS. Revised policies for natural heritage systems will apparently be part of a forthcoming additional ERO posting and consultation. Staff will provide a separate update to Council on the proposed natural heritage policies and any other related legislative or regulatory changes which may come forward.

**b) Bill 97, the Helping Homebuyers, Protecting Tenants Act**

Together with the release of the draft PPS, the Province has also released Bill 97, the Helping Homebuyers, Protecting Tenants Act through multiple ERO postings listed on ERO posting [019-6827](#). ERO posting for changes to the Planning Act, as noted below, closed on May 6, 2023 as they were part of a group of 30 day consultations.

Bill 97 includes, in part, changes to implement or ‘fix’ a number of items from Bill 109 and Bill 23, and also propose a number of new/additional changes. Table 1 below summarizes changes proposed through Bill 97, along with those matters from Bill 109 and Bill 23 that are outstanding, and also indicates those which appear to be addressed through Bill 97.

**Table 1. Summary of Key Bill 97, Bill 23 and Bill 109 changes**

<b>Regulation/Proposed Change</b>	<b>Implementing Act</b>	<b>Included in Bill 97</b>	<b>Notes</b>
Revisions to Bill 109 timelines and extend the implementation date for Planning Act refunds for Zoning and Site Plan applications from January 1, 2023 to July 1, 2023	Bill 109, More Homes for Everyone Act	Yes	Refund requirements will only apply to applications submitted on or after July 1, 2023.
Creating a Minister’s regulation-making authority to be able to exempt municipalities from the fee refund provisions in the future if needed	Bill 97, Helping Homebuyers, Protecting Tenants Act	Yes (NEW)	No exemptions are being proposed at this time, these changes build from Bill 109.



Conservation Authority Act changes to the regulations under Section 28 of the Act to combine and streamline the individual C.A. regulations into a single O.Reg.	Bill 23, More Homes Built Faster	No	Remains outstanding
Conservation Authority Act changes to the regulations under Section 28 to possibly exempt certain development activities under prescribed acts (e.g., the Planning Act) from the CA permitting process that is typically required within CA regulated areas (including wetlands).	Bill 23, More Homes Built Faster	No	Remains outstanding
Regulations under the Development Charges Act to provide additional details and implement changes enacted through Bill 23 in relation to 'attainable housing' and related exemptions for affordable and attainable housing units.	Bill 23, More Homes Built Faster	No	Remains outstanding
Planning Act regulations detailing parkland dedications where/how a developer can identify which lands they propose to dedicate as parkland, which can include encumbered lands. If a municipality refuses to accept such lands, developer can appeal.	Bill 23, More Homes Built Faster	No	Remains outstanding
Municipal Act – Added regulations for demolition and conversion of rental units	Bill 23, More Homes Built Faster	Yes	See Schedules 5 and 7 of Bill 97
Clarifying existing provisions regarding additional residential units in the Planning Act and corresponding regulation.	Bill 97, Helping Homebuyers, Protecting Tenants Act	Yes (NEW)	Further clarification of legislation and regulations from Bill 23 (parking for principal dwelling and extends protection from appeals for OP polices/OPAs/Zoning provisions and ZBAs for detached ARUs outside of serviced settlements)
Create regulation-making authority to prescribe specific circumstances where site plan control could be used for residential developments of 10 units or less.	Bill 97, Helping Homebuyers, Protecting Tenants Act	Yes (NEW)	Further clarification of legislation and regulations from Bill 23. Proposal is only for development within 120m of a shoreline or 300m of a railway line.

Modify the definition of area of employment to only include heavy industry and other employment uses that cannot be located near sensitive uses, to scope the applicability of existing provisions which limit appeals of municipal refusals and non-decisions	Bill 97, Helping Homebuyers, Protecting Tenants Act	Yes (NEW)	To correspond with proposed PPS changes for employment uses.
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.	Bill 97, Helping Homebuyers, Protecting Tenants Act	Yes (NEW)	
Provide the Minister of Municipal Affairs and Housing with the authority to exempt certain subsequent approvals required to establish uses permitted by Minister's zoning orders from having to align with provincial plans or policies.	Bill 97, Helping Homebuyers, Protecting Tenants Act	Yes (NEW)	
Updates to the Residential Tenancies Act, 2006, intended to protect tenants from bad faith evictions due to renovations/repairs.	Bill 97, Helping Homebuyers, Protecting Tenants Act	Yes (NEW)	
Rental replacement by-laws, under the Municipal Act, vary among municipalities and include requirements around number, size, type, and cost of rental units, as well as right of first refusal for existing tenants.  Updates to legislation would enact a Minister's regulation-making authority to enable the Minister to set minimum requirements which municipalities must impose on landowners, if they have rental replacement by-laws. This would increase consistency across and between municipalities that establish by-laws.	Bill 97, Helping Homebuyers, Protecting Tenants Act	Yes (NEW)	Builds from the Bill 23, changes where the Minister can prescribe limits to municipal powers related to demolition and conversion of residential rental properties of six or more units.  This <a href="#">Regulatory Registry posting</a> is for 45 days and closes May 21.

The following expands upon the above summary with respect to two specific matters that would have specific impacts for the County and Area Municipalities within Oxford:

***Extending the deadline for “Bill 109 fee refund regime” to July 1, 2023***

The deadline for the “Bill 109 fee refund regime” applicable to zoning by-law and site plan approval applications is formally shifted to July 1, 2023 from Jan. 1, 2023. This change was essentially promised earlier this year in correspondence from the Minister to municipalities. The refund regime now applies to applications received on or after July 1, 2023, unless the application is in

a municipality prescribed by the Minister to not be subject to the refund regime. If the amendments are approved, any refunds triggered under the previous January 1, 2023 regime are deemed never to have been required.

### ***Clarification of provisions regarding Additional Residential Units***

The proposed changes with respect to additional residential units are summarized as follows:

- Specify that the existing provisions limiting municipal requirements to one parking space per unit apply only to the second and third units on a property, and accordingly municipalities could require more than one space for the principal dwelling; and,
- Makes various changes to the Planning Act and Development Charges Act to clarify and use of consistent terminology, including:
  - that all ARUs are exempt from development charges and parkland dedication requirements (i.e., not just ARUs within a principal dwelling or in a detached structure on a 'parcel of urban residential land' as currently written); and,
  - that decisions regarding new Official Plan policies, Official Plan Amendments, Zoning provisions, and Zoning By-law Amendments for all ARUs cannot be appealed to the Ontario Land Tribunal (i.e., not just ARUs within a principal dwelling or in a detached structure on a 'parcel of urban residential land' as currently written).

As these legislative changes would not appear to impact the Official Plan policies adopted through County OPA 285 (Rural ARU Policies), the Townships can continue with implementation of those policies through zoning.

## **Conclusions**

The potential changes to the PPS, 2020 in addition to the further legislative, regulatory and policy changes associated with Bill 97 and outstanding matters from Bill 23, could potentially have a significant impact on land use, infrastructure and environmental planning across the province.

Given the extent of the various changes being proposed, together with the short review and commenting period provided by the Province, Planning staff are seeking County Council's direction to proceed with preparing and submitting formal comments to the Province on behalf of the County. It is intended that any such comments will be focused primarily on the policy areas and matters as generally outlined in this report and that formal, detailed comments will be included in a subsequent report to Council on May 24, 2023.

It should be understood that these are proposed preliminary draft comments which will require further review and refinement by Planning staff, including through consultation with provincial staff, municipal organizations and other key stakeholders, and participation in any upcoming information sessions, prior to submitting finalized comments.

Planning staff will continue to undertake more detailed analysis of the proposed changes and ensure that County Council is kept apprised of any comments submitted to the Province and will continue to monitor the progress of the policy and other changes being proposed, and advise County Council of any relevant changes and/or opportunities for comment on matters that may be of particular interest or concern to the County or Area Municipalities.

At such time as changes are enacted by the Province, the County and Area Municipalities will need to undertake updates to various policies, processes, standards and review related staffing and other resource impacts to ensure the changes can be effectively addressed and implemented in the Oxford context.

## **SIGNATURES**

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