



A People Place, A Change of Pace
SHELBURNE
ONTARIO, CANADA

To: Mayor Mills and Members of Council

From: Steve Wever, MCIP, RPP, Town Planner

Report: P2023-11

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

Recommendation

1. Be it resolved that Council receive Report P2023-11 for information regarding proposed Bill 97, the Helping Homebuyers, Protecting Tenants Act, and the proposed 2023 Provincial Planning Statement;
2. And that Council directs the Town Planner to submit comments to the Province in response to the ERO posting 019-6813 summarizing the Town's concerns regarding the potential impacts of the proposed policy changes that would permit rural residential development and agricultural lot severances as it relates to current and future truck transportation routes, land use compatibility with existing and future industrial operations, and increased demands for community services and infrastructure within Shelburne as an urban service centre in Dufferin County.

Background

Bill 97

On April 6, 2023, the Provincial Government introduced Bill 97, the Helping Homebuyers, Protecting Tenants Act, in the Legislature. The Bill proposes to amend 7 statutes, including the *Building Code Act (1992)*, *City of Toronto Act (2006)*, *Development Charges Act (1997)*, *Municipal Act (2001)*, *Ministry of*

Municipal Affairs and Housing Act (R.S.O. 1990), Planning Act (R.S.O. 1990), Residential Tenancies Act (2006). The Provincial commenting period on the proposed changes closed on May 6, 2023.

This report summarizes some of the proposed changes to the affected statutes and the impacts to municipal land use planning, the development approval and appeal process, and expansion of the scope of the Minister of Municipal Affairs and Housing's authority in particular planning matters. The full impact of the proposed legislation will be better understood when implementation details become available. As information becomes available, an additional report(s) to Council will be presented if needed to summarize associated impacts to the Town.

2023 PPS

On April 6, 2023, the Provincial Government also introduced a proposed 2023 Provincial Planning Statement (the "2023 PPS") for review and comments. The 2023 PPS is proposed to consolidate and replace *A Place to Grow – The Growth Plan for the Greater Golden Horseshoe* and the *2020 Provincial Policy Statement* and would apply province-wide. The intent is to establish an integrated policy framework which consolidates provincial policies and priorities in one document. The draft PPS 2023 is currently posted on the Environmental Bill Rights of Ontario (ERO), ERO number 019-6813 and the commenting period closes on June 5, 2023.

This report summarizes some of the main policy changes proposed in the 2023 PPS and potential impacts to the Town should the proposed policies come into effect as currently drafted, for Council's information and to facilitate direction to staff to submit comments on the ERO prior to the comment deadline.

Analysis

Bill 97 – Helping Homebuyers, Protecting Tenants Act

The proposed Bill 97 changes to Ontario statutes generally encompass the following:

- expanding the scope of the Minister of Municipal Affairs and Housing's authority regarding conversion and demolition of residential rental properties;
- enabling municipalities to create a policy framework for prescribed areas which qualify developments with 10 or fewer residential units as "developments" where Site Plan Control can be required;

- changing the effective date of application fee refund requirements for applications that extend beyond the Planning Act timelines from January 1, 2023, to July 1, 2023;
- re-defining employment areas to expressly exclude institutional uses and commercial uses, which include retail and office uses not associated with primary industrial uses;
- reduces restrictions applied to the introduction of second and third residential units;
- minor adjustments to timelines required of Municipalities regarding Site Plan Control applications.

Development Charges Act 1997

The changes proposed to the Development Charges Act relate to exemptions for additional dwelling units.

Currently, a third unit is only permitted and exempted from Development Charges if the existing or proposed detached house, semi-detached house, or rowhouse has no more than two residential units (exclusive of the proposed additional unit), and if the parcel of land containing the existing or proposed detached house semi-detached house, or rowhouse is a “*parcel of urban residential land*”. Bill 97 proposes a change to the latter pre-requisite by replacing “*parcel of urban residential land*” with “*parcel of land*”. This change would exempt second and third dwelling units from Development Charges even if they are not located on a “*parcel of urban residential land*”.

In summary this change would exempt all second and third dwelling units from Development Charges, including those on parcels located outside of urban settlement areas. The primary impact of this change, along with the proposed changes in the PPS 2023, is that it is likely to result in an increase in the number of dwelling units (and population) residing in the rural/agricultural areas of Dufferin County and cumulatively this could impact the Town of Shelburne as a service centre to the surrounding rural area in terms of community services demands as well as the potential for conflicts between rural residential uses and existing and future industrial operations and associated trucking as well as the planning for a future truck route/by-pass.

Municipal Act, 2001

Bill 97 would increase the scope of the Minister’s authority to regulate and restrict both the demolition and conversion of residential rental properties, as well as regulate and restrict the authority of local Municipalities to prohibit or regulate such activities under section 99.1 of the Municipal Act, 2001. The regulations which the Minister may put in place would also prevail over other Acts and regulations with which they may conflict.

The impacts of these changes will be further considered when associated regulations are available for review and comments.

Planning Act, R.S.O 1990

The proposed changes to the Planning Act relate to the definition of “area of employment”, Site Plan Control, additional dwelling units and parking requirements, application fee refunds, Interim Control By-laws and associated timelines and appeal rights:

- The definition of “area of employment” in the Planning act is proposed to be amended to explicitly exclude institutional uses and commercial uses, including retail and office uses not associated with primary industrial uses. This change will limit the range of land uses that the Town may permit within employment areas.
- The timeline for municipalities to give notice of the passing of an Interim Control By-law would be reduced from thirty days to twenty days. The proposed changes also entitle “*any person of public body who was given notice*” to appeal a by-law passed under the Interim Control By-law within 50 days after the date of the passing of the by-law.
- The definition of “development”, in the context of a Site Plan Control Area, would include developments where ten or less residential units are proposed only in “prescribed areas”.
- Requirements to refund application fees for certain types of planning applications where a decision is not made within the timelines prescribed in the Planning Act would come into effect for applications filed on or after July 1, 2023.
- The beginning of the required timeline for a decision related to a Site Plan Control application would be changed to when the application is “*received*” by the municipality rather than when it is “*submitted*” to the municipality.
- The proposed changes also prohibit Municipalities from requiring parkland dedication or cash-in-lieu thereof for second and third dwelling units, no longer limiting this prohibition only to urban residential properties.
- The proposed changes also clarify language in the section of the Planning Act that governs Official Plans to prohibit an Official Plan from requiring more than one vehicle parking space per unit for second and third units by allowing municipalities to require more than one parking space for the primary residential unit.

In summary, the primary impacts of the Bill 97 changes to the Planning Act on planning matters in the Town of Shelburne include the restriction of permitted land uses within areas of employment, the change to the effective date for application fee refund requirements, the ability to require more than one parking space for a primary residential unit, and the additional relief (from parkland dedication or cash-in-lieu) afforded to second and third residential units on land outside of urban areas.

Other Proposed Amendments

- Bill 97 proposes to amend the *Building Code Act, 1992*. No changes relevant to municipal planning matters are proposed.
- Bill 97 proposes to amend the *City of Toronto Act, 2006*. No changes relevant to municipal planning matters outside of the City of Toronto are proposed.
- Bill 97 proposes to amend the *Ministry of Municipal Affairs and Housing Act R.S.O. 1990*. No changes relevant to municipal planning matters are proposed. Changes relate primarily to internal operations for the Ministry of Municipal Affairs and Housing.
- Bill 97 proposes to amend the *Residential Tenancies Act, 2006*. No changes relevant to municipal planning matters are proposed.

Provincial Planning Statement (2023 PPS)

The draft 2023 PPS proposes some significant changes to provincial policy when considered in the context of the growing emphasis and prescriptive approach towards growth management and curbing urban sprawl since the *Growth Plan for the Greater Golden Horseshoe* was first introduced in 2006.

The current planning framework is built upon the compact development of complete communities and focussing growth within fully serviced urban areas through intensification of existing built-up areas and through limiting urban expansions to those that meet strict criteria and are justified based on prescribed growth forecasts, targets and land needs determined through comprehensive review to demonstrate that additional urban land is needed, it can be serviced and the development of the area will achieve minimum density targets. This shift fundamentally transformed how communities are planned and how growth is managed as compared with earlier planning frameworks which allowed local municipalities a greater degree of control and flexibility to independently establish their own growth forecasts and define their own settlement area boundaries.

The changes proposed in the 2023 PPS in some ways mark a return to the planning framework that existed prior to the *Growth Plan* era, while

maintaining emphasis on the development of complete communities, directing growth to fully serviced urban areas primarily and supporting intensification, and other growth management concepts, but with a less prescriptive approach. The main driver of the proposed changes is to facilitate more housing.

Some of the most significant changes included in the 2023 PPS include the introduction of policies that would allow the creation of new settlement areas (currently prohibited by the *Growth Plan*) and remove the requirement for a comprehensive review to justify settlement area boundary expansions, the removal of prescribed growth forecasts and minimum intensification and density targets, and new residential development permissions in the rural area including rural subdivision developments and agricultural lot severances as well as second and third units.

Complete Communities, Intensification & Redevelopment

The proposed 2023 PPS defines Complete Communities as mixed-use neighbourhoods that offer and support equitable access to many necessities for daily living for people of all ages and ability. This includes an appropriate mix of jobs, a full range of housing, transportation options, public service facilities, local stores, and services.

Currently, the Town is required to plan for accommodating growth and development through a balance of intensification within the existing built-up area and new development areas referred to as “designated greenfield areas”, with a target of 38% of new residential development to be in the form of infilling and redevelopment within the established built-up area and a minimum density target of 41 people and jobs per hectare in the greenfield areas. Pursuant to the *Growth Plan*, the County has recently adopted an amendment to the *Dufferin County Official Plan (DCOP)* that increases the intensification target for Shelburne to 48% and maintains the greenfield density target of 41 people and jobs per hectare.

The new 2023 PPS directs that “Planning authorities should support general intensification and redevelopment to support the achievement of complete communities” but does not require municipalities to establish or achieve minimum intensification and density targets but encourages municipalities to set density targets for new settlement areas and settlement area expansions. It is also expected that redevelopment and intensification proposals will support the movement towards complete communities.

The 2023 PPS also promotes land use patterns within settlement areas support mixed uses which meet the following criteria:

- a) efficiently use land and resources,
- b) optimize existing and planned infrastructure and public service facilities,

- c) support active transportation,
- d) are transit-supportive, as appropriate, and
- e) are freight-supportive.

The new 2023 PPS also states that “[p]lanning authorities should... prioritiz[e] planning and investment in the necessary infrastructure and public service facilities [to support the achievement of complete communities]”.

Intensification that progresses towards complete communities is also viewed in the Proposed 2023 Provincial Policy Statement as helping achieve energy conservation, air quality and climate change policies. For example, the Proposed 2023 Provincial Policy Statement states that “[p]lanning authorities shall plan to reduce greenhouse gas emissions and prepare for the impacts of a changing climate”, listing the achievement of complete communities as the first approach to satisfying such a directive.

In the short-term, it is not expected that these changes will have a significant impact on the continued planning for accommodating growth and development within Shelburne through a balance of intensification and new development areas.

Over the longer term, the proposed changes may result in less intensification as other options for providing housing through urban area expansion, development in rural areas and through agricultural lot severances become a more prevalent part of the mix and options for the development of new housing.

As summarized later in this report, the primary concern with the overall growth management approach in the 2023 PPS is that more widespread growth throughout the County will further strain the Town’s limited resources in seeking to address the growing needs and expectations for community services and infrastructure. The new approach may also create land use compatibility and goods movement/transportation-related issues particularly associated with existing and future industrial operations and heavy trucking. Intensification potential within Shelburne will continue to be limited until an alternative trucking route is made available to move heavy trucks off of the main streets and out of the downtown area.

Urban Expansion

The 2023 PPS provides the municipal creation of new settlement areas and settlement area boundary expansions without the need for a comprehensive review. The policies direct municipality to consider the following:

- a) that there is sufficient capacity in existing or planned infrastructure and public service facilities;
- b) the applicable lands do not comprise specialty crop areas;

- c) the new or expanded settlement area complies with the minimum distance separation formulae;
- d) impacts on agricultural lands and operations which are adjacent or close to the settlement area are avoided, or where avoidance is not possible, minimized and mitigated to the extent feasible as determined through an agricultural impact assessment or equivalent analysis, based on provincial guidance; and
- e) the new or expanded settlement area provides for the phased progression of urban development.

Currently, the 2020 PPS directs that “development and land use patterns that would prevent the efficient expansion of settlement areas in those areas which are adjacent or close to settlement areas” is to be avoided. This policy is not carried forward in the 2023 PPS. It is recommended that this policy should be maintained and that rural/urban fringe development that could negatively impact efficient urban expansion in the future should not be permitted.

In the short-term, it is not expected that these changes will have a significant impact on the continued planning for accommodating growth and development within Shelburne as an urban municipality and should not impact the planned expansion of the urban area to include the remaining west side land within the municipal boundary as part of the urban area through the County’s current Official Plan review and update.

Over the longer term, if the municipal boundaries of Shelburne are changed in the future, the new 2023 PPS would enable the Town and/or private landowners to initiate the process for expanding the settlement area boundary and would not require a municipal comprehensive review to be completed by the County. The potential creation of new settlement areas in the adjoining Townships would be something for the Town to carefully monitor to consider the impacts and demands for services within Shelburne as well as infrastructure planning. These potential future impacts cannot be fully anticipated and quantified at this time, as it is unknown if the adjoining municipalities would consider the creation of new settlement areas and if that is considered in the future further details would be needed to assess the potential impacts.

Employment Areas

The 2023 PPS proposes to change the definition of “employment areas” as is proposed through Bill 97 which would similarly change the definition of “area of employment” in the Planning Act. The proposed policies focus on protecting employment areas for manufacturing, warehousing and goods movement and would not permit commercial and institutional uses, public service facilities, and retail and office uses that are not associated with the primary employment use.

Agricultural and Rural Areas

The 2023 PPS adds permission for “*multi-lot residential development, where site conditions are suitable for the provision of appropriate sewage and water services*” on rural lands. This would permit multi-lot severances or subdivisions on rural lands so long as they can be adequately serviced, which may include private communal or private individual on-site water and sanitary systems.

The new 2023 PPS also includes policy changes affecting agricultural areas. A principal dwelling associated with an agricultural operation may be permitted in prime agricultural areas as an agricultural use. Two additional residential units may be permitted in prime agricultural areas, provided that they meet certain criteria.

Changes are also proposed regarding permitted lot severances in agricultural areas. Currently, the creation of new residential lots in the prime agricultural area is not permitted. In the proposed draft 2023 PPS, up to three (3) new residential lots may be created from a lot or parcel of land that existed on January 1, 2023, subject to meeting certain criteria including the requirement that any new lot must be adjacent to existing non-agricultural land uses or consist primarily of lower-priority agricultural lands. The new 2023 PPS also requires that municipal official plans shall not be more restrictive than the proposed PPS lot creation policies except to address public health or safety concerns.

As rural areas face continued pressure for development, this shift in policy direction could have a dramatic effect on the pattern of residential development in the County. As an urban municipality and service centre located in the geographic center of Dufferin County, Shelburne will be primarily impacted by the additional demands on infrastructure and services provided by the Town, without benefitting from any development-related financial revenues or assessment growth, including:

- Demands for municipal parks and recreational services and programs;
- Infrastructure capacity requirements to receive and treat wastewater collected from private servicing systems;
- Potential demands for municipal water and/or sanitary services to be extended beyond the Town’s boundaries should private systems fail in the future; and,
- Growth in traffic through and within the Town as a result of the added rural population.

Another concern from the Town’s perspective is the potential impact of rural residential development on goods movement corridors and specifically the

potential for conflicts between rural residential uses and existing truck routes. The planning for a future truck route/by-pass to redirect heavy trucks away from the main streets and downtown of Shelburne will be impacted if rural residential development is permitted along the roads surrounding the Town. Rural residential development is not compatible with heavy trucking and will limit options for re-routing trucks as an alternative to the current situation with heavy volumes of truck traffic routed through Shelburne.

Additionally, rural residential development has been proposed in the past near the south industrial area of Shelburne and the Town was successful at the Ontario Land Tribunal (OLT) in demonstrating that the proposed rural residential uses are not compatible with the existing and future industrial operations and the existing truck route along County Road 11. By adding permission for rural residential uses, the new 2023 PPS could result in new rural residential uses in locations that are not compatible with industrial operations and trucking activities.

Climate Change

The 2023 PPS directs municipalities to plan to reduce greenhouse gas emissions and to prepare for the impacts of a changing climate by supporting compact, transit-supportive and complete communities, incorporating climate change considerations in planning for infrastructure, stormwater management and public service facilities, supporting energy conservation and efficiency, promoting green infrastructure and other additional approaches that may be identified. Some of the policy changes proposed in the 2023 PPS such as the new provisions for agricultural lot severances and rural multi-lot development appear to be inconsistent with this policy as it will result in more low-density housing widely distributed across the County, which is car-dependent and not transit-supportive.

Natural Heritage

Proposed changes to the current (PPS 2020) natural heritage policies are proposed to be released separately and are not yet available for review and comments at this time.

Financial Impact

While the financial impact of the proposed policy changes cannot be quantified at this time, as summarized in the analysis some of the proposed policy changes with respect to development in the rural area of the County will impact demands for services in the Town and may also result in land use conflicts and transportation issues that will further strain the Town's financial resources without providing additional revenues to the Town to address these costs.

Consultation and Communications

Staff attended and participated in meetings with Planning Staff for the other area municipalities and the County, and with Ministry of Municipal Affairs and Housing staff, to review and discuss the impacts of the proposed policy changes.

Policies & Implications (if any) Affecting Proposal

Town of Shelburne Official Plan

Council Priorities

Council's Priorities has three Pillars - Sustainable, Engaged and Livable. There is a total of 14 Priorities within the three Pillars. This report aligns with the Sustainable Pillar within the Priorities of:

EP4 Support effective communication.

Supporting Documentation

N/A

Respectfully Submitted:

Steve Wever, MCIP, RPP, Town Planner

Reviewed by:

Denyse Morrissey, CAO