

CORPORATION OF THE COUNTY OF HURON

Planning and Development Department

To: Warden and Members of County Council – Day 1
From: Sandra Weber, Director & Denise Van Amersfoort, Manager of Planning
Date: May 3, 2023
Subject: Proposed New Provincial Policy Statement, 2023 and Bill 97 Changes to the Planning Act

RECOMMENDATION

RECOMMENDED MOTION:

That the Council of the County of Huron receive the report from Sandra Weber, Director and Denise Van Amersfoort, Manager titled Proposed New Provincial Policy Statement, 2023 and Bill 97 Changes to the Planning Act, dated May 3, 2023 for information;

AND FURTHER THAT:

The Council of the County of Huron direct staff to submit comments to the Ministry of Municipal Affairs and Housing on the proposed changes to the Provincial Policy Statement, 2023 as outlined in this report;

AND FURTHER THAT:

The report be circulated to the local municipalities for information.

BACKGROUND

On April 6, 2023, the Province released a proposed new Provincial Policy Statement (PPS), 2023. This new document integrates the Provincial Policy Statement, 2020 with A Place to Grow: Growth Plan for the Greater Golden Horseshoe to create a single, province-wide, housing focused land use planning policy document. On the same day, the Province also introduced Bill 97, the Helping Homebuyers, Protecting Tenants Act which received first reading. It proposes a series of legislative amendments to several Acts, including amendments to the Planning Act. These changes are part of the Province's Housing Supply Action Plan with the goal of achieving the construction of 1.5 million new homes across Ontario by 2031.

The Provincial Policy Statement is posted on the Environmental Registry of Ontario (ERO) for a 60 day commenting period until June 5, 2023 and Bill 97 is posted for comment until May 6, 2023.

COMMENTS

The following is an overview and comments on the proposed Provincial Policy Statement, 2023 and the changes to the Planning Act under Bill 97 that are relevant to planning in Huron County.

Proposed Provincial Policy Statement (PPS), 2023

1. Agricultural Lot Severances

Proposed Changes

The most significant change for Huron County proposed under the new PPS 2023 is new policies for residential lot creation in prime agricultural areas. The current PPS discourages residential lot creation in prime agricultural areas, with the exception of surplus farm residence severances. The changes would allow additional permanent residences and the severance of the additional residences, and the creation of new residential lots in the agricultural area subject to the following criteria:

4.3.2.5 Subordinate to the principal dwelling, up to two additional residential units may be permitted in prime agricultural areas, provided that:

- a) any additional residential units are within, attached to, or in close proximity to the principal dwelling;
- b) any additional residential unit complies with the *minimum distance separation formulae*;
- c) any additional residential unit is compatible with, and would not hinder, surrounding agricultural operations; and
- d) appropriate *sewage and water services* will be provided.

The additional residential units may only be severed from the lot containing the principal dwelling in accordance with policy 4.3.3.1.

4.3.3.1 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.
- b) a residence surplus to an agricultural operation (policies remain essentially unchanged including the prohibition of a residence being constructed on the retained farm parcel)

It should be noted that the new PPS also states that Official Plans and Zoning By-laws shall not contain provisions that are more restrictive than the above policies except to address public health or safety.

Staff Comments

Residential lot creation in prime agricultural areas has been discouraged since the Countryside Planning/Foodland Guidelines were issued by the Province of Ontario in the 1970s. The purpose of this provincial-wide planning document was to ensure the protection of prime agricultural land for food production.

Huron County is a prime agricultural area and agriculture is extremely important to the economy and the production of food. For over 50 years, Huron County has had strong Official Plan policies protecting this agricultural resource and directing non-agricultural related development to settlement areas. Staff and Council recognize the need for housing in the agricultural area and in response have updated Zoning By-laws to allow for additional residential units in the AG1 and AG4 zones and expanded permissions for on-farm housing for farm labour. This allows for additional housing related to agriculture but does not fragment the land base. The Province's proposal to allow for scattered residential development through lot creation does not further the interests of the agricultural industry.

The opening up of scattered residential lot creation in the prime agricultural areas may:

- increase conflict with modern farming practices,
- increase MDS restrictions on the placement of new barns;

- reduce the number of units being built in settlement areas where municipalities have invested substantial funds on services (hard and soft),
- lost opportunities for infrastructure efficiency in settlement areas;
- and increase the demand on municipalities to provide enhanced rural services e.g. more frequent snow plowing, road maintenance, garbage collection, emergency services, etc.
- ring serviced settlement areas with unserviced residential development making it more difficult and costly for future settlement area expansions and extension of services.

It is requested that the Province provide clarification on the criteria in the policies for creating new residential lots e.g. what is considered to be adjacent to a non-agricultural use and what are lower-priority agricultural lands. It is unclear if this is limited to adjacent to Settlement Areas, Recreational uses and Institutional uses, or does it open it up for 3 new residential lots next to all existing residences including farm residences and those that have been severed as surplus. And further, does this also allow residential lot creation on any area that a farm considers lower priority or inconvenient to farm rather than just areas with lower capability soils. Clarification is also requested on the criteria that requires an existing access on a public road and whether that access must exist or can it be obtained as part of the process. This clarification would help to determine the number of new residential lots that could be eligible to be severed across Huron County and the effect of the policy on the agricultural industry.

If the Province’s intention is to permit 3 residential lots from every farm parcel, this has the potential to result in thousands of non-farm related lots in the agricultural area across the County. The Province should reconsider this substantial policy direction change and the long term effects it will have on the protection of prime agricultural lands and maintaining the ability for farmers to farm. In addition, there may be other unintended consequences such as the effect of additional residences on the potential for future aggregate extraction.

The Department, along with GIS staff, has completed an assessment of the impacts of the policy to determine the potential for new residential lot creation in the prime agricultural area in Huron County. The analysis included the number of properties zoned AG1, AG1-Special, AG2 or AG2-Special where a minimum of 25% of the property was zoned AG1. The analysis did not include parcels zoned AG3 or AG4. The results indicate that there are 8304 parcels within these agricultural zones and with the potential for 3 new lots per parcel, the effect could be 24, 912 new residential parcels in the prime agricultural area in Huron. It is recognized that this estimate may vary due to the impacts of Minimum Distance Separation and access permits, but still give a sense of the potential impacts of the policy. The information is provided in the chart below.

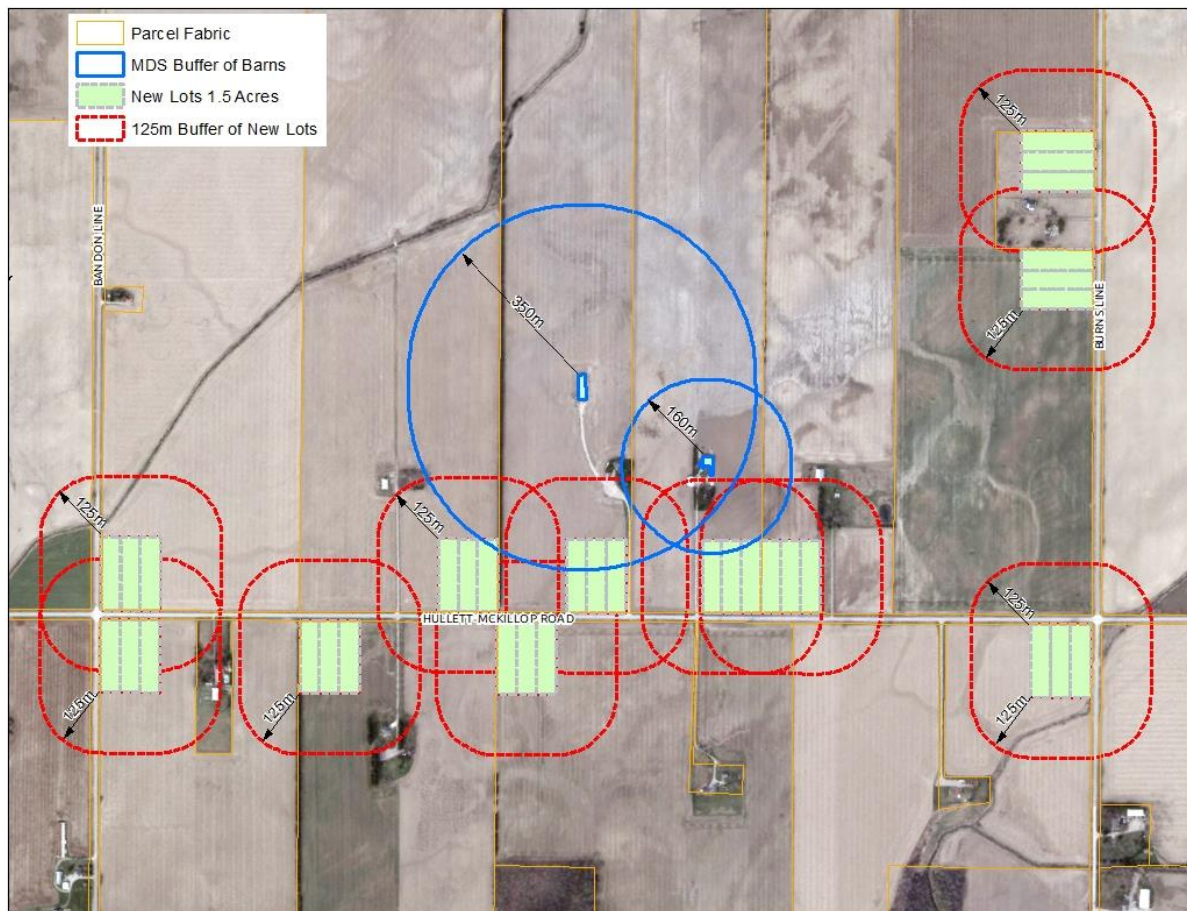
Chart 1: Assessing the Impact of Proposed PPS Lot Creation Policy in Prime Agricultural Areas within Huron County

| Local Municipality | Number of Parcels zoned AG1 and AG1-Special | Number of Parcels zoned AG2 and AG2-Special | Total Number of Eligible Agricultural Parcels | Potential New Lots if 3 per parcel is possible |
|----------------------------|--|--|--|---|
| Ashfield-Colborne-Wawanosh | 1367 | 0 | 1367 | 4101 |
| Bluewater | 1027 | 0 | 1027 | 3081 |
| Central Huron | 1105 | 45 | 1150 | 3450 |
| Howick | 622 | 44 | 666 | 1998 |
| Huron East | 1593 | 111 | 1704 | 5112 |
| Morris-Turnberry | 852 | 55 | 907 | 2721 |
| North Huron | 340 | 26 | 366 | 1098 |
| South Huron | 1026 | 91 | 1117 | 3351 |
| County of Huron | 7932 | 372 | 8304 | 24,912 |

Note: Due to the impacts of Minimum Distance Separation and access permits, it may be such that three (3) residential lots are not possible from every identified parcel.

To provide a visual context, an example was mapped using one Concession Block in Huron County, including the number of potential residential lots and the increased area that would no longer be eligible for the construction of a livestock barn due to Minimum Distance Separation setback requirements to these new lots.

Image 1: Example of Potential Impact of Proposed PPS Lot Creation Policy on Rural Concession



As discussed in the next item of the report, the Province is proposing to permit Settlement boundary expansions without the requirement for a Comprehensive Review. Understanding that some agricultural land may be needed to address the demand for housing, staff are supportive of eliminating this requirement for expansions and directing development to settlement areas which is a more efficient use of agricultural land than scattered residential development throughout the countryside.

Rather than the creation of non-farm related residential lots to increase the potential for housing in the agricultural area, the Province could consider amending the policy for surplus farm residence severances that requires the retained farmlands to be rezoned to prohibit a residence. The current limitation on the retained land could be removed, allowing a residence on these farm parcels where the severance was completed a certain number of years ago (e.g. 10 - 15 years or longer to avoid speculation). This would allow for additional housing related to agriculture and would not result in additional severances.

2. Settlement Area Expansions

Proposed Changes

The requirement for a Comprehensive Review to identify a new settlement area or expand a settlement area boundary has been removed in the proposed 2023 PPS. With no requirement for municipal comprehensive reviews, municipalities could consider settlement area expansions at any time. The tests to be applied are not as stringent as they were, but would still require consideration of adequate servicing, phased progression of urban development, and impacts on agriculture including minimum distance separation through an Agricultural Impact Assessment. There is no limit on the ability of landowners to apply for an expansion, although the Planning Act continues to limit the ability to appeal the refusals of any such applications.

Staff Comments

As indicated above, staff are supportive of the change to streamline the process for expanding settlement areas where required based on adequate servicing (provided priority is given to expansion in fully serviced areas), logical extensions and addressing agricultural impacts. This is a more efficient use of land than scattered residential lots in the prime agricultural areas. The Province only encourages municipalities to set density targets for these expanded areas, but should give consideration to stronger language to ensure efficient use of these additional development lands.

3. Employment Areas and Employment Land Conversions

Proposed Changes

The definition of 'employment areas' is proposed to be changed in both the Planning Act and the new PPS to only include areas with heavy industry, manufacturing, and large-scale warehousing. It does not include commercial, institutional, retail or office not accessory to heavier industry.

The PPS is proposing to allow the removal of lands from an employment area to permit other uses without the requirement for a Comprehensive Review. Municipalities can consider (and landowners can apply for) the removal of land from employment areas where it can be demonstrated that there is a need for the removal, the proposed uses will not negatively impact the overall viability of the employment area, and infrastructure is planned or available to accommodate the proposed use. The Planning Act continues to limit the ability to appeal refusals or non-decisions of such applications.

Staff Comments

No concerns with this proposed change as the Huron County Official Plan already excluded Commercial, Institutional and retail uses from being considered as employment areas.

4. Growth Targets

Proposed Changes

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

Municipalities will no longer be required to have an intensification target but will need overall density targets.

Staff Comments

No concerns. The County's updated population and housing needs projections (included in 2023 approved budget) will assist in establishing minimum density policies.

5. Natural Heritage

Proposed Changes

There is a note in the PPS that indicates as of April 6, 2023, natural heritage policies and related definitions remain under consideration by the government. Once proposed policies and definitions are ready for review and input, they will be made available through a separate posting on the Environmental Registry of Ontario.

Staff Comments

Staff will update Council once the Natural Heritage policies are provided by the Province for review.

Bill 97 – Changes to the Planning Act

The proposed changes to the Planning Act under Bill 97 are more minor and technical in nature and include the following:

1. New Ministerial Powers

The Minister will be given the power to:

- Exempt lands that are the subject of MZOs from complying with provincial policies and official plans when other planning approvals are applied for, such as plans of subdivision. This gives the Minister the ability to address circumstances where an MZO permits residential uses in an area where the official plan does not.
- Make regulations regarding transition related to the applicability of a new provincial policy statement.
- Make regulations regarding the powers of municipalities to regulate demolition and conversion of residential rental properties, including to pass a by-law requiring a landowner to provide compensation.

2. New Effective date for Bill 109 Planning Fee Refunds

The effective date for planning application fee refunds for Zoning By-law and Site Plan Approval applications where no decision is made within the statutory time periods that were originally in place for applications filed on or after January 1, 2023, is proposed to be changed to July 1, 2023. If any fee refunds were owing as a result of applications filed and not decided on between January 1 and July 1, 2023, the refund is deemed not to have been required.

A report was provided to County Council and local municipal Councils which outlined process changes to help reduce the need for refunds.

3. Parking for Additional Units

Bill 23 put in place restrictions on the ability to require more than one parking space where additional residential units are permitted as of right. Bill 97 proposes to clarify that official plans and zoning by-laws can still require more than one parking space for the primary residential unit.

4. Site Plan Control for Developments of 10 or Fewer Units

Bill 23 had previously removed the authority for municipalities to require Site Plan Control for housing developments with 10 or fewer units. A new regulation has been posted on the ERO which prescribes areas where site plan control could apply to developments containing 10 or fewer residential units, specifically within 120 metres of a shoreline and within 300 metres of a railway line. This would allow municipalities in Huron to apply site plan control within these specific areas if issues such as drainage, servicing connections, etc. would be best addressed through this process. Municipal Site Plan Control By-laws that were already updated to reflect the original change would now need to be updated again.

NEXT STEPS

Council direct staff to submit these comments, and any additional comments identified by Council to the Province for consideration and clarification.

OTHERS CONSULTED

CAO Wark, County Planning Directors, Western Ontario Wardens Caucus Planning Working Group, Planning and Development Staff, Dr. Wayne Caldwell

'Original signed by'

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