



Proposed Revisions to the Provincial Policy Statement - Preliminary City Comments

Date: October 1, 2019

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

On July 22, 2019, the Ministry of Municipal Affairs and Housing posted on the Environmental Registry of Ontario (ERO) proposed revisions to the Provincial Policy Statement (PPS 2019). The Provincial commenting period runs for 90 days and closes on October 21, 2019. The following report has been prepared by the City Planning Division in consultation with Legal Services, and other divisional partners potentially impacted by the proposed revisions to the PPS.

This report highlights the proposed changes to the PPS 2019 and provides preliminary comments on their potential impact on municipal land use planning and the development approval process. The revised PPS, 2019 makes edits in support the current governments "*More Homes, More Choice: Ontario's Housing Supply Action Plan*", as well as a further alignment of the policies with the *Growth Plan 2019* and the revised *Heritage Act*.

While no effective date or transition rules for the new policies have been identified, the *Planning Act*, s.3(5) provides that once approved, all decisions of the council of a municipality, in respect of the exercise of any authority that affects a planning matter, **shall be consistent** with the PPS.

The Province has identified the following top priorities as driving the proposed PPS 2019 changes:

- Increasing housing supply
- Supporting jobs
- Streamlining development approvals

In order to address these priorities, the Province has identified the following key policy directions:

- Encourage the development of an increased mix and supply of housing
- Protect the environment and public safety

- Reduce barriers and costs for development and provide greater predictability
- Support rural, northern and Indigenous communities
- Support the economy and job creation

As a component of the consultation on PPS 2019, the Province has asked the following questions:

- Do the proposed policies effectively support goals related to increased housing supply, creating and maintaining jobs, and red tape reduction while continuing to protect the environment, farmland, and public health and safety?
- Do the proposed policies strike the right balance? Why or why not?
- How do these proposed policies take into consideration the views of Ontario's communities?
- Are there any policy changes that are needed to support key priorities for housing, job creation, and streamlining of development approvals?
- Are there other tools that are needed to help implement the proposed policies?

Despite the list of priorities and policy directions, the proposed changes to the PPS are not all encompassing, with no significant changes to Natural Heritage, Cultural Heritage, Transportation, Agricultural or Rural policies.

The majority of the changes made are in support of the Province's desire to increase housing supply. There is potential for some of the changes to impact the City's long range forecasting and long range planning work, as well as planning for and providing housing options. Overall the proposed changes should not affect day to day decision making on development applications, rather, the new policy framework may have impacts on long range planning and Official Plan policies.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning recommends that City Council:

1. Advise the Province that the City of Toronto supports the Province's general directions of the Provincial Policy Statement (PPS) to promote the efficient use of land and management of infrastructure, transit-supportive development that provides for a range of housing options, a strong economy and job creation and protections of the environment.
2. Request the Province to ensure that nothing in the PPS 2019 precludes or hinders the ability of the three levels of government to deliver on their housing programs.
3. Request the Province to modify the PPS 2019 and supporting legislation to permit the use of inclusionary zoning throughout the entire city rather than limiting it to protected major transit stations areas.

4. Advise the Province that the City of Toronto does not support the proposed policy 1.3.2.5 that would allow employment land conversions to occur in advance of the Municipal Comprehensive Review.
5. Advise the Province that the City of Toronto does not support the proposed revisions to policies with respect to Built Form (1.1.3.6), Phasing (1.1.3.7) and Transportation Infrastructure (1.6.7.2) where the language in the PPS has been changed from 'shall' to 'should' and recommends the existing wording be maintained.
6. Request the Province to more fully consider the implications of the introduction of the principle of **Market demand**, and **Market based need** in the PPS 2019, and the potential for conflict this principle will have on the delivery of the public land use policy framework and process. If the revised policies are maintained, the province should provide guidance, definitions and clarification on the meaning of **Market-based need** and **Market demand**, including a methodology for how these terms will be calculated and applied.
7. Request the Province to confirm if, and when a revised Land Needs Methodology will be released, and to withhold the proposed PPS policies that direct or modify that process until municipalities have had an opportunity to comment on the revised methodology.
8. Request the Province to modify the policy and its inclusion of potential air rights development to ensure the safety of the rail corridors and adjacent lands are paramount.
9. Request the Province to address inconsistency in definitions amongst provincial planning policy documents (where applicable) or failing this add a policy to the PPS to indicate which definition has primacy.
10. Request the Province to enable the use of Zoning with Conditions as permitted under section 113 (2) of the City of Toronto Act 2006 by passing a regulation under sections 122.1 to allow the City to better deliver on the Provinces' stated objectives regarding the proposed changes to the PPS.
11. Direct the City Clerk to forward this report to the Ministry of Municipal Affairs and Housing as the City of Toronto's submission to the Province on the Provincial Policy Statement and the ERO posting.

FINANCIAL IMPACT

There are no financial impacts arising from this report.

Equity Impact Statement

This report provides preliminary comments on the Provincial Policy Statement which could have impacts on equitable access by diverse equity-seeking communities across the city, to community facilities, parks and affordable housing, arising out of fast paced

growth and intensification of the city's complex and high intensity built environment. The report makes recommendations to mitigate impacts arising from the proposed legislation in order to maintain and improve the liveability of the city for all citizens, to ensure continued and meaningful community engagement in the city-building process and positive local economic outcomes and to ensure that the lead role that the city plays provincially in upholding the tenants of "good" planning practice, continues.

DECISION HISTORY

This report responds to the Province's July 22, 2019 release of the proposed policies in the PPS 2019. The proposed changes are intended to support the delivery of the Provinces' "More Homes, More Choice: Ontario's Housing Supply Action Plan", as well as a further alignment of the policies with the Growth Plan 2019 and the revised Heritage Act. Notwithstanding the current review, City Council has been engaged over the years in advocating for changes to Ontario's land-use planning and appeal system, the most recent being:

- City Council Report CC7.3. Proposed Bill 108 (More Homes, More Choice Act 2019) and the Housing Supply Action Plan - Preliminary City Comments. Adopted as amended by Toronto City Council on May 14, 2019.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC7.3>
- Planning and Growth Management Committee Report PG23.7. "Bill 139 - Proposed Amendments to the Planning Act and Province's Land Use Planning Appeal System" adopted as amended by Toronto City Council on November 7, 2017.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG23.7>
- Planning and Growth Management Committee Report PG16.6. "Response to Provincial Consultation on Reforming the Ontario Municipal Board (OMB), adopted as amended by Toronto City Council on December 13, 2016.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.PG16.6>

COMMENTS

The Provincial Policy Statement (PPS) is a statement of provincial policies on land use planning and is issued under the Planning Act. It applies province-wide and sets out provincial policy direction for matters of provincial interest related to:

- the efficient use and management of land and infrastructure;
- ensuring the sufficient provision of housing to meet changing needs and affordable housing;
- ensuring opportunities for job creation;
- ensuring the appropriate transportation, water, sewer and other infrastructure is available to accommodate current and future needs; and
- protecting people, property and community resources by directing development away from natural or human-made hazards.

The Planning Act requires decisions on land use planning to be 'consistent with' the PPS. The City implements the PPS through the development of the Official Plan and implementation of the Official Plan and other provincial policies in its decisions on zoning by-law amendments amongst other planning instruments.

Facilitation of Residential Development

The proposed changes reflect the province's stated intent to facilitate residential development across the province. There is a shift in policy language that supports market considerations playing a role in the determination of the range and mix of housing, and a relaxation of some of the process and considerations in expanding settlement areas, and converting land from employment uses to non-employment uses. This shift is intended to support residential development as the key element of any mix, and for lower density residential development in the Greenfield municipalities elsewhere in the province. Some policy changes proposed in this regard include:

- Changed 20 year planning horizon to **25 years** (1.1.2)
- Added that healthy, liveable and safe communities are sustained by: "accommodating an appropriate **market-based** range and mix of residential types (including single detached, additional residential units, multi-unit housing, affordable housing and housing for older persons..."(1.1.1 b)
- Added new term "**housing options**" to define the types of housing. (1.1.3.3 and definitions)
- Added in clause connecting growth to "**market demand**" (1.1.3.8)
- Adding clauses which permit minor adjustments to Settlement Area boundary outside of a comprehensive review (1.1.3.9)
- Added requirement for municipalities at the time of the Official Plan Update to assess employment areas to ensure the designation is appropriate to the planned function of the employment area (1.3.2.2)
- Added a notwithstanding clause permitting conversion of lands not identified as provincially significant from Employment to other uses subject to three tests (1.3.2.5)
- Changed 10 year supply to 12 year supply of housing to be maintained (1.4.1a)
- Added a housing policy in support of "**market based needs**" (1.4.3)
- Reinforced residential uses permissions in the Long Term prosperity section by including new clause that encourages residential uses to respond to **dynamic market-based need** and provide necessary housing supply and a range of housing options for a diverse workforce (1.7.1 b)
- New policy stating planning authorities shall take action to support increased housing supply and facilitate a timely and streamlined process or local development by identifying and fast tracking priority applications which support housing and job-related growth, and reducing the time needed to process residential and priority applications to the extent practical (4.7)

The Provinces' policy assumption that an increase in supply will have a bearing on the cost of land, or that a shorter approvals process will result in a more affordable residential market place relies solely on the actions of the development industry to pass along any savings to the purchaser of the new dwelling. There also appears to be the assumption that the introduction of greater density and infill in existing communities will

have a corresponding impact on the pricing of housing in those communities and neighbourhoods.

The City monitors the development pipeline and assesses progress towards the Growth Plan targets for new housing. There were 242,081 units built from 2002 to 2018 in Toronto and a further 140,441 units that have received their first City approval but have not yet been built between 2014 and 2018, and an additional 167,309 units in projects currently under review. Currently, we are 17 years into the Growth Plan's forty-year forecast period, this represents a total of 382,522 units or 96% of the units required to accommodate the household growth to 2041. However, on an annual basis, over the past five years, Council has approved more units than were completed. If all of these units were realized and occupied at the average number of persons per household in apartments in buildings of 5 or more storeys, their estimated population could be 540,000 to 620,000 people, about one-fifth of the City's total population in 2016.

Despite the supply of new units, and the number of units approved but not yet built, the cost of housing in the City has continued to rise over this period. This is contrary to the assumption that with more supply, prices will become more affordable. The cost of housing and the housing market is influenced by many factors including new household formation, increases in income/purchasing power, immigration, aging in place, community facilities, transportation options, employment and activity rates, etc. It is paramount that these proposed increases in supply be tempered with good planning principles and the provisions required for healthy, sustainable and complete communities.

Market based, Market Demand, Market based need

The use of the terms **market based** (1.1.1), **market demand** (1.1.3.8), **market based need** (1.4.3) and **dynamic market-based needs** (1.7.1) is of concern as they are not defined terms. These references appear to set up a regime in which "market" is to be a key decision making consideration in the creation of strong and healthy communities.

This new measure may require market based studies in support of development applications, and additional background market studies in support of long range planning by municipalities. The need for these studies and the potential for disagreement about their weight and value within the broader land use framework are likely to add cost and time to the current approvals and long range planning processes. In order to implement this new policy, municipalities may have to develop their own market needs and market demand studies to ensure the range and mix of housing planned for is consistent with the PPS 2019.

This would seem to create a conflict with the expressed desire of the Planning Act to shorten the planning process (90 days for a zoning amendment application and 120 days for an official plan amendment or combined application). It also seems likely that these policies could be used to formulate arguments against providing more family sized units or affordable units. Furthermore, if the intention of the Province is consistent with their messaging regarding the need to create more housing to ensure it is both affordable and attainable, then a definition of market demand, market-based need and the market-based range and mix of residential types of housing must also provide for

the provision of affordable housing and attainable housing options. In this way, the new PPS may provide the framework to properly use 'market' as one of the measures for evaluating affordability and attainability of new housing. To ensure this outcome and support all three levels of government's efforts to address housing affordability, the PPS 2019 should define these terms to ensure clarity as to the intention of the new language. Alternatively, the Province should look at revising the terms to be one singular, consistently defined term in the PPS.

Furthermore, these terms set up a direct conflict with the Land Needs Assessment Methodology for the Greater Golden Horseshoe, released by the Minister in the context of the Growth Plan 2017. That guidance states (in section 2.3.1) the principle that "An approach to land needs assessment driven primarily by assumptions about market demand for specific types of housing, and how much land it might require, would likely be more land consumptive and not effectively implement the policies of the Growth Plan, 2017". The Ministry has initiated a review of the guidance in light of A Place to Grow, the Growth Plan, 2019. In order for the Growth Plan 2019 to be implemented effectively and to avoid lengthy Hearings on these conflicts before the Local Planning Appeal Tribunal, it is essential that these matters be considered together and that consistent guidance be provided before the PPS 2019 is finalized.

In addition, in order for decision making to be expedited and to ensure the new policy framework is being appropriately delivered, additional planning tools are needed. Staff recommend that the Province ensure that the implementation tools (Inclusionary zoning permissions throughout a municipality, and the use of Zoning with conditions) are in place to assist the city and other municipalities in the Province to better deliver on the desired land use planning outcomes.

Supporting Housing and Homelessness Plans

The proposed PPS contains a number of policies intended to support the Provinces plans to increase housing options and affordability. Although staff may question the theory that an increased supply of housing will have a corresponding effect of reducing housing costs, it appears that the proposed policy, read in a manner that suggests that the definition of **Market needs and Market demands** includes and accounts for the new definition of **housing options**, and the connection to the **service managers housing and homelessness plans**, then they could provide for the appropriate framework to support the directions and desired outcomes of the Housing and Homelessness Plans. There are no proposed changes to the definition of affordable or other policies related to affordable housing. Some policy changes proposed in this regard include:

- Added new term "**housing options**" to define the types of housing. (1.1.3.3 and definitions)
- Added coordination policy to connect housing needs to **Service Manager Housing and Homelessness Plans Policy Statement** (1.2.1 h)
- New policy stating planning authorities shall take action to support increased housing supply and facilitate a timely and streamlined process or local development by identifying and fast tracking priority applications which support housing and job-

related growth, and reducing the time needed to process residential and priority applications to the extent practical (4.7)

- Defining **Housing Options**: "means a range of housing types such as, but not limited to single-detached, semi-detached, row houses, townhouses, stacked townhouses, multiplexes, additional residential units, tiny homes, multi-residential buildings and uses such as, but not limited to life lease housing, co-ownership housing, co-operative housing, community land trusts, affordable housing, housing for people with special needs, and housing related to employment, institutional or educational uses."

The new policy puts added weight on the content and directions of the City's Housing and Homelessness Plan, which is already in place. Consideration of the new policy framework in conjunction with the HousingTO 2020-2030 Action Plan, and the City's other housing initiatives will be required.

Limited Permissions for "Inclusionary Zoning"

Under Bill 7 (the Promoting Affordable Housing Act, 2016), municipalities were able to determine the areas where inclusionary zoning would apply. Unless otherwise prescribed by regulation, the Planning Act changes in Bill 108, limit a municipality's ability to apply inclusionary zoning only to protected major transit station areas, to locations where the municipality has adopted a development permit system and to location or locations where the Minister orders a development permit system to be put in place. This is in conflict with the new PPS policies which are intended to support new Housing Options to the greatest extent, which in the City of Toronto's case would include lands across the entire city.

Previously, municipalities were able to determine inclusionary zoning areas subject to the completion of an assessment report analyzing housing need and demand and the financial impact of inclusionary zoning in accordance with provincial regulation. The City has advanced work on the required assessment report and developed proposed policy directions that have advanced to public consultation over the course of the spring and summer 2019.

The effect of linking inclusionary zoning to protected major transit station areas and development permit system areas will result in delays in getting an inclusionary zoning policy framework in place and creating new affordable housing. Amendments to the 2017 Growth Plan, which came into effect on May 16, 2019, enable municipalities to delineate major transit station areas in advance of a municipal comprehensive review, subject to the completion of detailed work in accordance with the protected major transit station area requirements of the Planning Act. The outcome will be that inclusionary zoning policies will not be able to be adopted until policies in respect of protected major transit station areas are adopted and approved or major transit station areas have been identified and the policy framework in place. The establishment of a development permit system area is subject to a Minister's Order and also requires the completion of detailed analysis, again resulting in potential delays to the implementation of inclusionary zoning.

Process

The draft PPS includes a number of process based directions which are linked to provincial activities and directions. Some policy changes proposed in this regard include:

- Changed policy from "**are encouraged to**" to Planning Authorities "**shall engage**" with indigenous communities and coordinate land use planning matters (1.2.2)
- New policy stating planning authorities shall take action to support increased housing supply and facilitate a timely and streamlined process or local development by identifying and fast tracking priority applications which support housing and job-related growth, and reducing the time needed to process residential and priority applications to the extent practical (4.7)

These policy changes have no impact on the City's current practices as their intent and outcomes are currently practiced and in place at the City. The City values and actively engages with indigenous communities on land use matters following the City's well established protocols. The City also has in place many programs and practices to both facilitate and streamline approvals processes, like Housing Now and Open Door, and is in the process of implementing the End to End Review of the development approval process.

"Shall" to "Should"

There are several policies which have been modified from 'shall' to 'should', that provincial staff have stated is to provide more flexibility in the implementation of the respective policy. The difference between "shall" and "should" is significant, as 'shall' represents a mandatory requirement while "should" represents more of an encouraged direction.

The change from "shall" to "should" primarily occurs in the policies related to the efficient use of land and infrastructure. The shift to encouraging language away from mandatory requirement language is concerning coupled with the recent LPAT reforms as the City grapples with financial challenges and the unknown implications of climate change, that the effected policies play a role in addressing.

Air Rights

The Province has introduced into its definition of Transit-supportive and its Transit supportive policies a provision requiring consideration of air rights in proximity to transit stations, corridors and associated elements with the transportation system. It is unclear how this new policy language will affect the built form or discussions and approvals of development applications in these locations. Staff are concerned that the proposed policy does not prioritize air rights and the safety of rail transport and use. Many of Toronto rail corridors, which are federally and/or provincially regulated are used for the transport of dangerous goods, or have high traffic volumes. The City has experienced significant growth in recent years and development pressures adjacent to these corridors has been flagged as an area of concern. The City has undertaken a land use study to assess and provide recommendations regarding City's practices with respect to reviewing development applications to address growth and intensification in proximity to

rail corridors. Of paramount concern, is providing for the safety of the rail operation, and those living and working in proximity to the corridors. This consideration and principle should be highlighted in the new PPS policy language.

Cultural Heritage

The Province has not proposed substantive changes to cultural heritage policies in PPS2019. Through Bill 108, the Province passed, but not yet enacted, changes to the Ontario Heritage Act. The regulations to assist in implementing such changes have not yet been released for consultation and comment. It is acknowledged that the policies of the PPS and understanding of the Ontario Heritage Act, in some respects, go hand in hand. Without the proposed regulations, it is difficult to provide commentary on how the changes to the PPS impact or do not impact the City's process and procedure regarding cultural heritage.

The City is concerned that a misalignment of the multiple policy and legislative frameworks may have an impact on the City's implementation of its cultural heritage policies and programs, and it is recommended that the province consult with municipalities and ensure that the new regulations under the Ontario Heritage Act are coordinated with the PPS to ensure the proper implementation of such policy.

Questions and Clarifications required of the Province

1. Is Market based in 1.1.1 also intended to modify employment, institutional, recreation and other uses to meet long term needs, or is it only modifying residential types?
2. What does the 'economic' requirements of current and future residents mean in 1.4.3.b? Does this mean housing that is priced at what current and future residents can afford?
3. How are "c" and "d" different in the definition of residential intensification?
4. Long-term care facilities are currently not directly under the control of the Planning Act as they are developed at the provincial level, through a provincially regulated process. On this basis, why has long-term care facilities been added to the definition of public service facilities and what are the impacts in meeting the consistency tests of the PPS?
5. There are a number of un-numbered policies that are set apart in their formatting and appear to be unconnected to the language found prior to them. Are they to be read as if they are part of the previous policy? (e.g. 1.1.3.2 after g), 1.1.3.8 following e), 1.1.5.2 following f), 1.4.1 following b), 1.6.6.5 following b).
6. In the Housing Options definition, it is unclear what is meant by 'housing related to employment, institutional or educational uses', Educational uses are student residences but it is not clear what is related or supportable in the context of complete policy framework with respect to employment and institutional. Could you better define or provide some examples?

7. What constitutes "significant" supply in policy 1.1.3.3.? What constitutes "necessary housing supply" in policy 1.7.1(b)?

8. Is the term **Market based** in 1.1.1 also intended to modify employment, institutional, recreation and other uses to meet long term needs, or is it only modifying residential types, as it is unclear and this will have an impact on implementation of the new policy if maintained.

Other

The PPS is a high level policy document that is operationally implemented through municipal planning instruments, namely the City's Official Plan and Zoning By-laws. The proposed PPS 2019 maintains the principle that municipal official plans are the most important vehicle for implementation of the Provincial Policy Statement and for achieving comprehensive, integrated and long-term planning. Official plans shall identify provincial interests and set out appropriate land use designations and policies.

Provincial plans and municipal official plans provide a framework for comprehensive, integrated, place-based and long-term planning that supports and integrates the principles of strong communities, a clean and healthy environment and economic growth, for the long term.

Staff will continue to work with the Province to ensure the proposed language in the PPS 2019 supports the delivery of complete, healthy, liveable neighbourhoods and communities in the City.

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