

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee
From: Gregg Barrett
Director, City Planning and City Planner
Subject: Provincial Policy Statement (PPS) 2020
Meeting on: April 27, 2020

Recommendation

That, on the recommendation of the Director, City Planning and City Planner, this report regarding the 2020 Provincial Policy Statement **BE RECEIVED** for information

Executive Summary

A draft of the new Provincial Policy Statement (PPS) was introduced in July 2019 to align with the changes to the *Planning Act* through Bill 108, *More Homes, More Choice Act, 2019*.

Following consultations with municipalities, stakeholders and the public, a final version of the PPS was released on February 28, 2020. The PPS will come into effect on May 1, 2020. In accordance with section 3 of the *Planning Act*, all decisions on land use planning matters made on or after that date are required to be consistent with the PPS 2020.

Highlights of the changes include:

- A new opportunity to provide a 25-year planning horizon extended from a 20-year horizon
- An extended minimum to accommodate residential growth from 10 to 15 years
- Additional flexibility for settlement area boundary expansion
- Market based housing policies with the addition of “affordable housing”
- New guidance related to transit-supportive development, including air rights development
- New references to “a changing climate,” with a focus on adaptation
- Increased flexibility for sewage, water and stormwater servicing
- The removal of the relationship between waste management and land use planning
- More flexibility regarding interpretation and implementation
- Changes between prescriptive language “shall” and suggestive language “should”
- Enhanced municipal engagement with Indigenous communities on land use planning matters
- Introduction of the new term “agricultural system” for agriculture-related economic growth
- Increased development opportunities in rural areas
- Enhanced direction on planning, protecting, and converting employment areas

A report was received by the Planning and Environment Committee on October 7, 2019 that included a description of the new draft PPS, and included a response that was submitted in response to the Environmental Registry of Ontario (ERO) posting. The final version has not addressed most of key concerns identified in that report.

Relevant Background

October 7, 2019 – Provincial Policy Statement (PPS) 2019 Review – The Planning & Environment Committee received staff comments on the proposed changes to the Provincial Policy Statement and directed staff to forward the report as a response to the Environmental Registry of Ontario (ERO) posting.

Analysis

1.0 Summary of Changes

1.1 Increasing Housing Supply and Mix

- Extended maximum planning horizon from 20 to up to 25 years (policy 1.1.2)
- Extended minimum residential land supply from 10 to 15 years (policy 1.4.1)
- Addition of “market-based” range and mix of housing types (policy 1.1.1.b and 1.7.1.b)
- Added flexibility related to settlement area boundary expansions and adjustment (policies 1.1.3.8 and 1.1.3.9)
- Greater emphasis on transit-supportive development and intensification, including potential air rights development (policies 1.1.1, 1.3.3.3, 1.4.3, and 1.8.1)

1.2 Protecting the Environment and Public Safety

- New references to a changing climate throughout the PPS
- More flexible infrastructure and public service facilities policies relating to sewage, water services and waste management
- A new policy for promoting on-site and local re-use of excess soil to prevent mismanagement of excess soil (policy 3.2.3)
- Positive changes to policies in relation to the protection of public health safety following the 2019 consultation

1.3 Reducing Barriers and Costs

- Increased flexibility to interpretation and implementation of overall policies (section 4 of the PPS)
- Retention of a policy regarding an environmental assessment for infrastructure planning (new policy 4.7)
- Changes of language between “shall” and “should” (policies 1.1.3.6, 1.1.3.7, 1.2.6.2, and 1.6.7.2)
- Removal of a proposed policy pertaining to fast-tracking of priority applications

1.4 Supporting Rural, Northern and Indigenous Communities

- Enhanced municipal engagement with Indigenous communities on land use planning matters, including cultural heritage and archaeological resources (policies 1.2.2 and 2.6.5)
- New definition and provisions with respect to the agricultural system (policy 2.3.2)
- More permitted uses in rural lands (policy 1.1.5.2)
- Deletion of a provision for promoting and protecting uses in relation to agriculture and normal farm practices (policy 1.1.5.8)

1.5 Supporting Certainty and Economic Growth

- New provisions for better planning and protecting employment lands (policies 1.2.6.2, 1.3.2.2 and 1.3.2.3)
- Additional opportunities for conversion of employment areas (policy 1.3.2.5)
- New references to “regional economic development corporation” as a partner in determining regionally significant employment areas (policy 1.3.2.5)
- New direction to facilitate conditions for economic investment (policy 1.3.1.c)

For reference, a strikeout and underline version of the changes from the 2014 to the 2020 PPS is attached as Appendix A.

2.0 Analysis of the 2020 PPS

2.1 Increasing Housing Supply and Mix

Extended planning horizon and period for land supply requirement

The extension of the 20-year planning horizon allows municipalities to include lands within their urban growth boundaries that accommodates up to a 25-year supply of residential and employment lands (policy 1.1.2). It is noted that the new PPS states “up to 25 years”, referring to the maximum rather than the standard. Given that, the existing London Plan horizon of 20 years is consistent with the new PPS.

More significantly, the minimum residential land requirement is increased to 15 years from 10 years (policy 1.4.1). The time period is extended by 3 additional years from the proposed time period of 12 years in 2019. The change requires municipalities to maintain a 15 year residential land supply, which introduces new challenges as there is less certainty with regards to residential demand the further out we project. This will be considered in a comprehensive review of the London Plan that considers the need for potential changes to the urban growth boundary based on local demographic and economic factors.

A future comprehensive review of the London Plan will also need to be consistent with a revised policy 1.1.3.8.a, which adds satisfying market demand as a condition for urban growth boundary expansions. The addition of policy 1.1.3.9 also challenges the City to facilitate adjustment of its urban growth boundary outside of a comprehensive review, where the conditions in policy 1.1.3.9 are met. These conditions include that there is no net increase in land within the boundary.

Market-based and affordable housing needs

Primarily intended to increase a range and mix of housing supply, the PPS introduces the term “market-based”, which relates to a range and mix of residential types throughout the PPS. The full implications of this change are unclear as there is considerable room for interpretation. The inclusion of the term “market-based” may be used to differentiate it from affordable housing targets, or may be used as rationale to increase the supply of specific housing types. However, the addition of the term “affordable housing” alongside references to “market-based” supports some of our housing initiatives which is positive (policies 1.1.1 b and 1.4.3).

The inclusion of “market demand” as a criterion to justify a settlement area expansion needs to be balanced with other PPS policy that supports intensification and compact built form, so as to avoid forms of development that could result in sprawl and auto-oriented development (policy 1.1.3.8.a).

The 2011-2031 ReThink London Land Needs Background Study was part of the London Plan process, and it estimated that there would be sufficient land to accommodate growth for twenty years without adding additional land. Beyond 2031, it was estimated that there would be an additional 3 year supply for low-density development, 48 year supply for medium-density development, and 20 year supply for high-density development. The projections therefore appear to align with the new PPS. Through the next comprehensive review of the London Plan we will ensure that land is available through intensification and greenfield development to accommodate future residential growth.

Transit-supportive development

The revised PPS requires transit-supportive development to accommodate residential and employment needs. Strengthened directions on transit-supportive development support the London Plan to align place types with transit service. The inclusion of the term “station” in policies related to transit-supportive development (policies 1.2.4.d and 1.4.3.e) also supports Transit Villages and Rapid Transit Corridors to accommodate higher density development.

The PPS newly references “air-rights development” as part of transit-supportive development. However, there is no clear definition of air rights in the PPS, which could result in multiple interpretations. We have consulted with the Ministry of Municipal Affairs and our understanding is that the Province’s intent is to permit development opportunities over existing and planned transit infrastructure. Should the opportunity for air rights development arise we are supportive in principle.

2.2 Protecting the Environment and Public Safety

New references to “a changing climate”

Intended to enhance direction on municipalities’ proactive emergency preparedness, the term “a changing climate” is introduced throughout the PPS. The language is largely focused on climate change adaptation or resiliency, rather than mitigation.

Furthermore, the policies with respect to the use of renewable energy and alternative energy system are removed throughout the PPS. The City still has the ability through policy and practice to address climate change mitigation and infrastructure planning, even if it isn’t directed by the PPS.

A new paragraph in Section 3.0 – Protecting Public Health and Safety of the PPS requires municipalities to work with the Province and conservation authorities on mitigating risk from natural hazards and the impacts of a changing climate. The cooperation with conservation authorities would enhance municipalities’ ability to assess and address potential risks from natural hazards and extreme weather events such as flooding. This change was made in response to a recommendation of the Province’s Special Advisor on Flooding. The London Plan currently values considerations on climate change impacts to minimize the risks associated with natural hazards in consistency with the new PPS.

The new language related to climate change aligns with the City of London’s Climate Emergency Declaration.

Increased flexibility to sewage, water, stormwater and waste management

Several revisions throughout policy 1.6.6 allow for additional flexibility to alternate servicing options, including private communal services, individual on-site services, and particle services where municipal sewage and water services are not available, planned or feasible. For example, policy 1.6.6.3 now states that private communal services are the preferred form of servicing for multi-unit/lot development where municipal services are not available, planned, or feasible, whereas the PPS previously said that may be used in cases where services are not provided. This policy and several others could support private servicing for development, which is inconsistent with comprehensive infrastructure planning. At the same time, language is added to ensure that planning for sewage and water services prepares for the impacts of a changing climate and policy 1.6.6.2 has new language stating that municipal services are the preferred form of servicing for settlement areas “to support protection of the environment and minimize potential risks to human health and safety.” Finally, additional language is added in policy 1.6.6.4 to direct planning authorities to assess the long-term impacts of individual on-site services on the environmental health and character of rural settlement areas.

Direction on the relationship between waste management and land use patterns is weakened as a result of a removed sentence in policy 1.6.10.1, which stated: “Planning authorities should consider the implications of development and land use patterns on waste generation, management and diversion.” Although this policy is discretionary, the London Plan supports sustainable waste management and careful considerations for the locational relationship of waste management facilities with other land uses in terms of compatibility and mitigation of adverse impacts on the environment.

Promoted on-site and local re-use of excess soil

The PPS now encourages municipalities to support on-site and local re-use of excess soil while protecting human health and the environment (policy 3.2.3). This provision is positive to the City to consider potential procedures or actions for management of

excess soil as mitigation measures to minimize potential adverse effect to the environment, including ground or surface water. Further, the City could recognize mismanagement of excess soil as human-made hazard, and pay more attention to the management to minimize potential risk to public health and safety.

New changes based on the 2019 consultation

The revised PPS reflects positive changes to policies regarding the protection of the environment and public safety as a result of the consultation in 2019.

The PPS removes the proposed provision for extraction permitted in natural heritage features outside the Greenbelt Area where habitation plans demonstrate that the extraction will have no negative impacts on natural heritage features.

Further, the PPS removes proposed policy 2.1.10, which is a discretionary policy for management of wetlands not considered significant as per the PPS. This removal alleviates potential implementation challenges to identify, assess, and manage wetlands not considered to be provincially significant. The new PPS maintains the protection of natural heritage features, as policies under section 2.1 – Natural Heritage remain unchanged, which is positive from the City’s perspective.

2.3 Reducing Barriers and Costs

Increased flexibility for interpretation and implementation

A number of changes to Section 4 – Implementation and Interpretation allows for additional flexibility to interpret and implement the 2020 PPS. Many policies are moved to the introduction parts of the PPS, particularly Parts I to III.

The recognition of other provincial legislation and regulations, such as the Greenbelt Act and the Niagara Escarpment Plan, to read and implement in conjunction with the PPS is removed.

New policy 4.9 encourages municipalities to report on the implementation of their official plan policies in accordance with provincial standards. Policy 4.9 in the 2014 PPS stated that the PPS represents minimum requirements and does not prevent planning authorities from exceeding the requirement of the PPS. This policy was removed and the provision is now found in Part III: How to Read the Provincial Policy Statement.

Policy 4.11 is now retained with new language as new policy 4.7, rather than being deleted as proposed in 2019. The PPS places greater emphasis on an environmental assessment process for existing and planned infrastructure in order to reinforce infrastructure planning under the Planning Act and applicable legislation or regulations.

Language changes between “shall” and “should”

Supportive language “should” in a policy (1.2.6.1) is replaced with the prescriptive phrase “shall”, making them mandatory. Planning for major facilities and sensitive land uses is now required to ensure that adverse effect are minimized and mitigated and their long-term operational and economic viability. This change supports the London Plan, which emphasizes planning for major facilities and sensitive land uses.

However, the word “should” implies discretionary direction and replaces the word “shall” in several policies, which are critical to implement. The language change contradicts other policies in the revised PPS that encourage the integration of infrastructure, servicing, and transportation into planning.

- Policy 1.1.3.6 will no longer require municipalities to facilitate compact growth.
- Policy 1.1.3.7 will no longer requiring phasing policies, which are critical to ensuring timely provision of infrastructure and services.
- Policy 1.6.7.2 will no longer require municipalities to make efficient use of existing and planned transportation infrastructure.

Removed direction on streamlining priority applications

The revised PPS does not require fast-tracking of priority applications, as proposed in the 2019 draft. The removal of the proposed policy, which lacked clarity on definition and criteria of the applications has ameliorated our concerns with respect to compact growth and sustainable development.

2.4 Supporting Rural, Northern and Indigenous Communities

Engagement with Indigenous communities

The PPS emphasizes section 35 Aboriginal or treaty rights of the *Constitution Act* through prescriptive direction on municipal engagement with Indigenous communities on land use planning matters. Identifying, protecting and managing cultural heritage and archaeological resources also now require engagement. The London Plan supports and recognizes building relationships with Indigenous communities through meaningful engagement on cultural heritage (policy 571) and archaeological resources (policies 613, 614, and 1631). However, staff should consider a framework for engagement to ensure that the City best consider the interests and involvement of Indigenous communities on the matters.

Changes have been made to the definition of cultural heritage landscape that would limit those heritage resources to those that meet provincial, federal or international criteria.

New agricultural system planning

New references to and provisions for the “agricultural system” represent positive changes to support long-term protection of prime agricultural areas (policies 1.7.1.i and 2.3.2). Municipalities outside the Greater Golden Horseshoe (GGH), including the City of London, can use the system as a best practice to protect local food production and promote the local and regional agri-food sector including farm markets and on-farm buildings.

The London Plan supports the protection of prime agricultural areas, as the City has prime agricultural land comprising 80% of the land outside its urban growth boundary. The agricultural system could encourage the City to better maintain and protect the agricultural land base and to promote the City as an agricultural and agri-food industrial hub.

More development opportunities in rural areas

Following the consultation in 2019, the PPS extends the range of uses that may be permitted in rural lands through additional flexibility with regards to development opportunities (policy 1.1.5.2). For greater certainty, the PPS identifies agricultural uses, agricultural-related uses, and on-farm diversified uses and normal farms as permitted uses, as these uses are generally common uses of rural lands. In addition to these uses, the PPS encourages locally appropriate residential development, including lot creation, rather than limiting the development (policy 1.1.5.2).

However, the changes to the policies do not apply to the rural land in London, which is prime agricultural land. The land, therefore, is subject to section 2.3 that provides direction to protect prime agricultural areas. There are minimal changes to the section, and the City’s process regarding prime agricultural land is only impacted by the change to policy 2.3.2. The reference to the minimum distance separation formulae requirement for non-residential uses in prime agricultural areas was proposed to be removed (2.3.6.1 b 2). The reference is now restored as a criterion, thereby reinforcing the importance of its use. This retention has alleviated our concerns, which included potential inconsistency with related policies and implementation problems in terms of land use compatibility and protection of prime agricultural areas.

Further, a policy regarding mitigation of potential impacts from non-agricultural uses on surrounding agricultural operations and lands remains unchanged. The proposed wording “avoided, and where avoidance is not possible” to policy 2.3.6.2 lacks clarity on assessing potential applications for non-agricultural uses on these lands.

The London Plan designates the prime agricultural land as the Farmland Place Type, and the general policies for the Place Type are consistent with the new PPS.

2.5 Supporting Certainty and Economic Growth

Employment areas planning and protection

The updated PPS allows for additional guidance on planning and protecting local employment areas through new policies. The guidance is intended to better protect industrial and manufacturing uses where adjacent non-employment uses, such as residential uses, are planned.

New policy 1.3.2.2 is added for municipalities to assess employment areas at the time of an official plan review or update to determine that the land use designation is appropriate.

The addition of policy 1.3.2.3 prohibits a wider range of uses that are not ancillary to primary employment uses, including residential uses, within employment areas for industrial and manufacturing uses. The proposed term “institutional uses” was replaced with the wording “other sensitive land uses” to increase flexibility. Both policies 1.3.2.2 and 1.3.2.3 speak to the locational relationship between industrial and manufacturing uses and sensitive land uses to ensure that separation or mitigation from the sensitive land uses is provided to protect the viability of the industrial and manufacturing uses.

The proposed policy 1.2.6.2 is now strengthened to better protect industrial and manufacturing uses with more concrete conditions with respect to sensitive land uses, in keeping with the emphasis on land use compatibility in revised policy 1.2.6.1. Municipalities are required to permit proposed sensitive land uses only if there is a demonstrated need and no reasonable alternative locations for the uses, and potential adverse effects to both the proposed uses and industrial uses are minimized and mitigated.

The PPS supports the goals of the City of London’s Industrial Land Development Strategy (ILDS). The London Plan also aligns with the PPS to ensure protection of industrial uses and sensitive uses and land use compatibility between them in accordance with the Province’s D-series Guidelines.

Conversion of employment lands

Policy 1.3.2.5 is added to allow the conversion of employment areas to permit non-employment uses in advance of a comprehensive review, provided the areas are not determined as provincially or regionally significant. This policy states that municipalities would work with a regional economic development corporation to determine significant areas in the regional context, however, the term “regional economic development corporation” is not defined in the PPS.

The policy does not also provide clear limitation on employment area conversion in the absence of a comprehensive review. The City should consider conditions or criteria to control the conversion.

New conditions for economic investment

The updated PPS provides new direction regarding economic investment (policy 1.3.1). The policy is supportive of the promotion of investments in new jobs and employment opportunities, however, does not provide clarification on how to identify strategic sites for investment and any criteria or requirements to implement. Given this, staff should internally collaborate to identify appropriate conditions for economic investment, including evaluation criteria for strategic sites, monitoring indicators, and measures.

3.0 Conclusion

This report is provided for information and includes an overview of the updated PPS, focusing on significant changes.

The PPS will come into effect on May 1, 2020 without further consultation and any modifications. Given that, staff will further review potential implication to the City, and identify appropriate policies and procedures in consistency with the new PPS.

In general the changes made in the 2020 PPS add flexibility or reduce the provincial requirement on planning matters. Given this characterization of the changes, the London Plan is generally consistent with the PPS.

There is no transition provisions for the new PPS, so in accordance with the Planning Act all decisions on planning matters made after May 1, 2020 shall be consistent with the new PPS. All reports moving forwards will include analysis of consistency with the new PPS.

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<p>Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Planning Services</p>	

April 20, 2020
JL/jl

Appendix A