

CLIENT NEWS ALERT: ONTARIO INTRODUCES BILL 97 AND SAYS GOODBYE GROWTH PLAN, HELLO NEW PPS – BILL 97 AND THE NEW PROPOSED PROVINCIAL PLANNING STATEMENT

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On April 6, 2023, Ontario's provincial government (the "**Province**") introduced [Bill 97: the Helping Homebuyers, Protecting Tenants Act](#) ("**Bill 97**"). Bill 97 comes hot on the heels of Bill 23, the omnibus [More Homes Built Faster Act](#), and introduces smaller amendments to several key pieces of land-use planning legislation, with many being technical in nature, including some housekeeping amendments to changes brought in under Bill 23 (see [here](#) for our most recent bulletin on Bill 23). The Province's press release for Bill 97 is available [here](#), and the related Environmental Registry of Ontario (the "**ERO**") posting is available [here](#).

In Bill 97, the Province also proposes to combine elements of the [Provincial Policy Statement, 2020](#) (the "**2020 PPS**") and [A Place to Grow: Growth Plan for the Greater Golden Horseshoe](#) (the "**Growth Plan**") into a single land use policy document: the Provincial Planning Statement ("**New PPS**"). See [here](#) for a draft of the New PPS, and [here](#) for the posting on the ERO. The Province states that this consolidation is part of

"ensuring that the policy framework is housing-supportive [and] is integral to the implementation of the Housing Supply Action Plan and meeting the target to construct 1.5 million new homes by 2031."^[1]

Additionally, on April 6, 2023, the Province proclaimed into force a section under Bill 23 which allows the Minister of Municipal Affairs and Housing (the "**Minister**") to amend an Official Plan by Order if the Minister is of the opinion that the plan is likely to adversely affect a matter of provincial interest.^[2]

The New Provincial Planning Statement

Industry stakeholders have been anticipating this announcement respecting the consolidation of the 2020 PPS and Growth Plan for some time. The Province began its review of the 2020 PPS and Growth Plan in late 2022, inviting public consultation until December 20, 2022 (see [here](#) for original ERO posting and proposal summary). The current draft of the New PPS is open for public comment and consultation on the ERO for 60 days, until **June 5, 2023** (see the ERO posting [here](#)).

The Province is targeting **fall of 2023** for the New PPS Policies to take effect, and proposes to release the

policies in final form shortly in advance to give municipalities time adapt to the changes.^[3] Any decision made on a planning matter on or after the effective date of the New PPS will be subject to its policies (subject to any regulations of the Minister setting alternate transition rules).^[4] The proposed policies are grouped into the following five “pillars” or objectives: (1) generate an appropriate housing supply; (2) make land available for development; (3) provide infrastructure to support development; (4) balance housing with resources; and (5) implementation.^[5]

The Province’s “[Proposed Approach to Implementation](#)”, which is also open to comment, includes the following approaches to the key proposed changes:

- [Growth Forecasts and Intensification Targets](#): The New PPS will maintain the population and employment growth forecast horizon of 2051, but now as a minimum, and municipalities will move forwards using their own forecasting beyond 2051 as time passes.^[6] The New PPS does not integrate intensification targets.
- [Employment Areas and Provincially Significant Employment Zones \(“PSEZs”\)](#): Bill 97 proposes to amend the definition of “employment areas” in the *Planning Act* so that specified uses would no longer include business and economic uses. This new definition would also be included in the New PPS. This amended definition could help facilitate more conversion of lands that have been previously used for certain employment uses to residential uses. This change is expected to take place upon proclamation of Bill 97.^[7] Relatedly, the PSEZs established in 2019 by the Minister would be revoked with the Growth Plan, and the Province is seeking feedback on the need to identify select PSEZs to protect lands exclusively for employment uses through an alternative approach, consistent with the amended definition of “areas of employment”. Such protection will ensure that the highest priority areas would receive particular protection from conversion to non-employment uses.^[8]
- [Urban Boundary Expansion](#): The New PPS would allow municipalities to expand their urban boundaries more easily, by either identifying new settlement areas or allowing the expansion of existing settlement area boundaries. There would no longer be a requirement for municipal comprehensive reviews, and municipalities would not be required to demonstrate the need for expansion under a new, simplified and flexible approach for settlement boundary expansion. Municipalities would be required to permit more residential development on rural lands, including farmlands and other greenfield sites.
- [Impact to Greenbelt Plan](#): In order to mitigate the impact to implementation policies of the Greenbelt Plan as currently under the Growth Plan, the Province proposes to amend the Greenbelt Plan such that “the previous policies in A Place to Grow and the Provincial Policy Statement would continue to apply in those cases where the Greenbelt Plan refers to them”.
- [Strategic Growth Areas and Major Transit Station Areas \(“MTSAs”\)](#): The New PPS would maintain the

Growth Plan's concepts of strategic growth areas and MTSAs. "Large and fast-growing municipalities", as identified in the New PPS, would be required to identify strategic growth areas and meet certain density targets in MTSAs on higher order transit corridors through their official plans.

Other Legislative Changes Under Bill 97

As noted above, the proposed amendments under Bill 97 would see changes across seven statutes, including the *Building Code Act*, the *Residential Tenancies Act*, and the *Planning Act* (being the focus of the majority of changes).^[9] In addition to the New PPS discussed above, these changes include:

- Various amendments to the *Residential Tenancies Act*, with a large focus on strengthening tenants' rights and protections from evictions due to renovations, demolitions, conversions or personal use of the landlord.
- Providing the Minister with additional powers under the Planning Act, including the authority to exempt lands subject to Ministerial Zoning Orders from the application of policy statements issued under s.3(1) of the *Planning Act*, provincial plans and official plans .
- Amendments to both the *Municipal Act* and the *City of Toronto Act* to grant the Minister authority to make regulations governing certain powers of a local municipality, including regulations that would impose restrictions, limits and conditions on the power of a local municipality to prohibit and regulate the demolition and conversion of residential rental properties.
- An amendment to the *Ministry of Municipal Affairs and Housing Act* to allow the Minister to appoint up to four Deputy Provincial Land Development Facilitators, alongside a corresponding amendment to the Planning Act to require a landowner to enter into an agreement with the Minister or a municipality where the Provincial Land Development Facilitator or Deputy Provincial Land Development Facilitator have been appointed.

Of note, the Province indicates that the changes introduced by Bill 23 removing the statutory approval authority from certain upper-tier municipalities will not take effect until winter 2024 "at the earliest".^[10]

Conclusion

McMillan will continue to monitor the status of Bill 97 and the New PPS. If you have questions or wish to make submissions to the Province regarding the policies proposed to guide the future of Ontario's planning, development, and land use, please contact Mary Flynn-Guglietti, Annik Forristal, Kailey Sutton or Patrick Pinho, and our team would be pleased to discuss this important piece of legislation and its potential impacts with you

[1] [ERO for New PPS](#) accessed as of April 11, 2023.

[2] Planning Act, s.23.

[3] Per the “[Proposed Approach to Implementation of the proposed Provincial Planning Statement](#)” available on the ERO as of April 12, 2023.

[4] Per the “[Proposed Approach to Implementation of the proposed Provincial Planning Statement](#)” available on the ERO as of April 12, 2023.

[5] [ERO for New PPS](#) accessed as of April 11, 2023.

[6] Per the “[Proposed Approach to Implementation of the proposed Provincial Planning Statement](#)” available on the ERO as of April 12, 2023.

[7] Per the “[Proposed Approach to Implementation of the proposed Provincial Planning Statement](#)” available on the ERO as of April 12, 2023.

[8] Per the “[Proposed Approach to Implementation of the proposed Provincial Planning Statement](#)” available on the ERO as of April 12, 2023.

[9] Amendments have been proposed to each of the Building Code Act, 1992, the City of Toronto Act, 2006, the Development Charges Act, 1997, the *Ministry of Municipal Affairs and Housing Act*, the *Municipal Act, 2001*, the *Planning Act*, and the *Residential Tenancies Act, 2006*.

[10] Per the “[Proposed Approach to Implementation of the proposed Provincial Planning Statement](#)” available on the ERO as of April 12, 2023.

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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