

What's changing? The *Provincial Policy Statement, 2020*

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On February 28, 2020, the Province of Ontario issued a new *Provincial Policy Statement, 2020* (PPS 2020), informed by comments received between July 22 and October 21, 2019. PPS 2020 will take effect on May 1, 2020. In accordance with section 3 of the *Planning Act*, all decisions affecting land use planning matters made after May 1, 2020, shall be consistent with the PPS 2020. In this insight, we provide a high level overview of the changes.

Protection of economic uses

The provincial government is seeking to protect economic uses, including industrial, manufacturing and employment. In addition, the province is encouraging planning authorities to facilitate conditions for economic investment.

Industrial and manufacturing uses: PPS 2020 requires planning authorities to protect the long-term viability of existing or planned industrial, manufacturing or other uses that are vulnerable to encroachment by ensuring that the planning and development of proposed adjacent sensitive uses are only permitted if the following are demonstrated in accordance with provincial guidelines, standards and procedures:

- a. There is an identified need for the proposed use;
- b. Alternative locations for the proposed use have been evaluated and there are no reasonable alternative locations;
- c. Adverse effects to the proposed sensitive land use are minimized and mitigated; and
- d. Potential impacts to industrial, manufacturing and other uses are minimized and mitigated.

This change is intended to ensure that sensitive land uses do not encroach on industrial and manufacturing uses.

Employment areas: Similarly, PPS 2020 seeks to protect employment uses by requiring adequate separation or mitigation from sensitive land uses to maintain the long-term viability of employment areas. At the time of the official plan review, planning authorities are encouraged to assess employment areas to determine whether the designation is appropriate. Planning authorities must prohibit residential uses, and prohibit or limit other sensitive land uses that are not ancillary to the primary employment uses to maintain land use compatibility within employment areas planned for industrial and manufacturing uses. Furthermore, employment areas planned for industrial or manufacturing uses are to include an appropriate transition to adjacent non-employment areas.

Land use flexibility

PPS 2014 restricted the expansion of settlement area boundaries to the comprehensive review, and outlined strict criteria. PPS 2020 allows that the level of detail of assessment during the comprehensive review correspond with the complexity and scale of the settlement boundary expansion or development proposal. Moreover, it states that municipalities may permit adjustments of settlement area boundaries outside of a comprehensive review if:

- a. There would be no net increase in land within the settlement areas;
- b. The adjustment would support the municipality's ability to meet intensification and redevelopment targets established by the municipality;
- c. Prime agricultural areas are addressed in accordance with Policy 1.1.3.8 (c), (d), and (e); and
- d. The settlement area to which lands would be added is appropriately serviced, and there is sufficient reserve infrastructure capacity to service the lands.

PPS 2020 also allows for the conversion of existing employment areas outside of a comprehensive review. Until the official plan review or update in policy through a comprehensive review is undertaken or completed, lands within existing employment areas may be converted to a designation that permits non-employment uses, provided that the area has not been identified as provincially or regionally significant, subject to the following:

- a. There is an identified need for the conversion and the land is not required for employment purposes over the long term;
- b. The proposed uses would not adversely affect the overall viability of the employment area; and
- c. Existing or planned infrastructure and public service facilities are available to accommodate the proposed uses.

Housing

The province attempts to incentivize the building of a variety of housing types to increase Ontario's available housing. It is also encouraging residential intensification within previously developed areas. The province revised the definition of residential intensification to include new housing options within previously developed areas. Included are a range of housing types, such as multiplexes, additional residential units, tiny homes and multi-residential buildings. Housing options can also refer to a variety of housing arrangements and forms, such as, but not limited to, life lease housing, co-ownership housing, co-operative housing, community land trusts, land lease community homes, affordable housing, housing for people with special needs, and housing related to employment, institutional or educational uses. These changes are made in an effort to increase the province's available housing supply by incentivizing the building of a variety of housing types, to encourage options to meet projected market-based and affordable housing needs.

Land use patterns within settlement areas shall be based on considerations, which include preparing for the impacts of a changing climate, and planning authorities are to identify and promote opportunities for transit-supportive development, as well as supply and range of housing. Planning authorities are called upon to require transit-supportive development and prioritize intensification, including the potential use of air rights in proximity to transit. The co-location of linear infrastructure is also to be promoted.

Locally appropriate lot creation is added as a permitted use on rural lands, as are agricultural uses, agriculture-related uses, on farm diversified uses and normal farm practices, in accordance with provincial standards.

PPS 2020 requires that sufficient land must be made available to meet projected needs for a time horizon of up to 25 years. This is an increase from the 20-year time horizon prescribed by PPS 2014. Also, planning authorities are now required to maintain the ability to accommodate residential growth for a minimum of 15 years, as opposed to the previously mandated 10 years, through residential intensification and redevelopment and, if necessary, lands that are designated and available for residential development.

Municipal servicing

PPS 2020 attempts to create a more fulsome servicing hierarchy for water, wastewater and stormwater. Planning for stormwater management is to be integrated with planning for water and sewage servicing. The province requires planning authorities to assess the long-term impacts of individual on-site water and sewage services on the

environmental health and character of rural settlement areas, and the feasibility of other forms of servicing at the time of the official plan review or update. Individual on-site services may be used where municipal servicing is not available, planned or feasible. However, municipalities are encouraged to review the long-term impact of individual on-site services on the environmental health and character of rural settlement areas. PPS 2020 permits upper and single tier municipalities to maintain land with servicing capacity sufficient to provide a five-year supply of residential units available through lands suitably zoned to facilitate residential intensification and redevelopment, and land in draft approved and registered plans.

Environment and public safety

PPS 2020 emphasizes consideration and preparation for the impacts of a changing climate. It also encourages planning authorities to support the local re-use of excess soil through planning and development approvals, so as to avoid the environmental and financial cost of transporting fill over long distances.

Indigenous consultation

PPS 2020 clarifies the requirement for consultation with Aboriginal communities on planning matters when section 35 Aboriginal or treaty rights are affected. This language is more concrete and provides certainty as to when consultation with an Aboriginal community shall be required.

Cultural heritage

The province modified various definitions related to cultural heritage pertaining to the designation of cultural heritage landscape or cultural heritage value. PPS 2020 says that cultural heritage landscapes may be properties that have been determined to have cultural heritage value or interest under the *Ontario Heritage Act*, or have been included in federal and/or international registers, and/or protected through official plan, zoning by-law, or other land uses planning mechanisms. PPS 2020 also emphasizes that the processes and criteria for determining cultural heritage value or interest are established by the province under the *Ontario Heritage Act*.

Overall, the PPS 2020 changes are positive, as they provide more certainty around land development in Ontario. Moreover, the PPS 2020 provides both municipalities and developers with various tools to create some degree of flexibility in the land development process.

Dentons will continue to analyze the planning implications of *Provincial Policy Statement, 2020*. If you have any questions about the *Provincial Policy Statement*, or its impact on your land, please do not hesitate to contact Katarzyna Sliwa or any member of Dentons' Municipal, Land Use Planning and Development Law team.

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