

OPPI & WeirFoulds LLP Annual Seminar

Legislative Update

Monday, December 18, 2023 | 9:00 a.m. to 11:00 a.m.

The information and comments herein are for the general information and not intended as advice or opinion to be relied upon in relation to any particular circumstances. For application of the law to specific situations, the reader/viewer should seek professional advice. The information was updated on December 18, 2023.

Agenda

- Update on New PPS (Dana Anderson)
- Bill 150, 131 and 134 (Chantal DeSereville)
- Bill 109, Update on Recent Announcements (Denise Baker)
- Strong Mayor Powers & Land Use Planning Matters (Raj Kehar)
- Questions & Answers

New Provincial Planning Statement (PPS)

- The New PPS, when adopted, will replace the *Growth Plan* and the *Provincial Policy Statement* and will function as an integrated Province-wide land use planning policy document.
- The New PPS will be considered a policy statement by the *Planning Act*, and the requirement for consistency with its policies will apply to all planning applications in Ontario.
- The New PPS is intended to provide more autonomy and flexibility to municipalities to plan for and manage growth and development.
- Anticipated to be brought forward early in 2024.



New PPS – Key Proposed Changes

Growth Targets and Municipal Comprehensive Reviews (MCRs)

- Growth targets removed. No population/employment targets for GGH municipalities.
- 29 “Large and Fast Growing Municipalities” identified.
- Removal of built boundary intensification targets.
 - Large/Fast Growing Municipalities required to identify density targets for Strategic Growth Areas and MTSAs.
- MCR process eliminated.
 - Municipalities expected to continue using 2051 targets, then generate own growth forecasts (and have enough land designated for min. 25 years).
 - Growth provided by MZO not to be included in minimum targets and growth requirements.

Settlement Area Boundary Expansions (SABEs)

- Municipalities can consider SABEs at any time.
- Encourages density targets for new SABEs (min. 50 residents/jobs/ha in Large/Fast Growing Municipalities)

New PPS – Key Proposed Changes

Development

Housing

- Affordable housing references removed and replaced with “full range of housing options”.
- New policy requiring planning authorities to permit/facilitate conversion of commercial/institutional buildings for residential use.

Major Transit Station Areas (MTSAs)

- Removal of Protected MTSAs (PMTSAs) and priority transit corridors.
- Addition of “higher order transit corridors” with minimum density targets for MTSAs on higher order transit corridors (based on form of transit).

Land Use Compatibility

- Removal of criteria to permit sensitive land uses in proximity to major facilities.

Rural Development

- Broaden ability for private communal services on rural lands.

New PPS – Key Proposed Changes

Employment Land

Employment Areas	<ul style="list-style-type: none">• Definition change in alignment with Bill 97.
Employment Land Conversions	<ul style="list-style-type: none">• Municipalities can consider (and landowners can apply for) the removal from land from Employment Areas at any time.
Provincially Significant Employment Zones (PSEZs)	<ul style="list-style-type: none">• PSEZs to be removed. Government considering alternative approaches to protect these lands, such as Minister's Zoning Orders (MZOs)

New PPS – Key Proposed Changes

Environment

Climate Change

- General policies requiring municipalities to plan for climate change.

Natural Heritage

- Minor changes to definitions. All policies carried forward from current *Provincial Policy Statement*.

Water Resources

- Watershed planning now *encouraged* to be undertaken, rather than required.

Agriculture

- Provincial mapping of Prime Agricultural Areas removed.

Changes with Implications

- Province-wide application – how are different Regional areas of the Province addressed to reflect local and Regional contextual differences?
- Removal of a growth management framework – what are the impacts to coordinated, orderly growth – Regional impacts/disparities?
- Discretionary language – is this a good thing as it relates to key planning principles and good planning in the public interest?
- Removal of Intensification Targets
- Impacts to Agricultural lands
- Less clarity – removal/changes to definitions and references (affordable housing, optimization) – what will this mean?

Bill 150: *Planning Statute Law Amendment Act, 2023*

- Enacts the *Official Plan Adjustments Act, 2023*
- Certain decisions of Approval Authorities on Official Plans are deemed never to have been made.
- The Official Plans that were the subject of those decisions are approved as modified.

Bill 150: *Planning Statute Law Amendment Act, 2023*

- Official plans of the following municipalities are affected:
 - Barrie
 - Belleville
 - Guelph
 - Halton (Regional municipality)
 - Hamilton
 - Niagara (Regional municipality)
 - Ottawa
 - Peel (Regional municipality)
 - Peterborough
 - Waterloo (Regional municipality)
 - Wellington (County)
 - York (Regional municipality)

Bill 150: *Planning Statute Law Amendment Act, 2023*

Item	Column 1 Official plan or amendment to an official plan	Column 2 Date of decision under subsection 17 (34) of the <i>Planning Act</i>	Column 3 Modifications set out in the decision referred to in subsection 1 (1) that apply to the official plan or amendment to an official plan
1.	Official plan adopted by the City of Barrie pursuant to By-law 2022-016	April 11, 2023	Modification numbered 66
2.	Official plan adopted by the City of Belleville pursuant to By-law 2021-180	April 11, 2023	Modifications numbered 11, 14 and 16
3.	Official plan amendment 80 adopted by the City of Guelph pursuant to By-law 2022-20731	April 11, 2023	Modification numbered 17
4.	Official plan amendment 49 adopted by the Regional Municipality of Halton pursuant to By-law 35-22	November 4, 2022	Modifications numbered 18, 19 and 39
5.	Official plan amendment 34 amending the Rural Hamilton Official Plan and adopted by the City of Hamilton pursuant to By-law 22-146	November 4, 2022	None
6.	Official plan amendment 167 amending the Urban Hamilton Official Plan and adopted by the City of Hamilton pursuant to By-law 22-145	November 4, 2022	Modifications numbered 18, 26 and 36
7.	Official plan adopted by the Regional Municipality of Niagara pursuant to By-law 2022-47	November 4, 2022	Modifications numbered 5, 24, 25, 32, 33, 39, 42 and 44
8.	Official plan adopted by the City of Ottawa pursuant to By-law 2021-386	November 4, 2022	None
9.	Official plan adopted by the Regional Municipality of Peel pursuant to By-law 20-2022	November 4, 2022	Modifications numbered 3, 16 to 18, 21, 30 and 41 to 43
10.	Official plan adopted by the City of Peterborough pursuant to By-law 21-105	April 11, 2023	Modifications numbered 9, 10 and 42
11.	Official plan amendment 6 adopted by the Regional Municipality of Waterloo pursuant to By-law 22-038	April 11, 2023	None
12.	Official plan amendment 119 adopted by the County of Wellington pursuant to By-law 5760-22	April 11, 2023	Modifications numbered 1 and 2

Bill 150: *Planning Statute Law Amendment Act, 2023*

- Also amends section 47 of the Planning Act to limit ability to sue province for the enactment of MZOs
- These new limitation of liability provisions are now in force and effect

Bill 136: *Greenbelt Statute Law Amendment Act, 2023*

- Reverses the province's removal of lands from the Greenbelt on December 14, 2022.
- Puts all 7400 acres back into the Greenbelt and keeps the 9400 acres of land that were added to the Greenbelt in compensation for last year's changes.

Bill 136: *Greenbelt Statute Law Amendment Act, 2023*

- Makes similar amendments to the *Oak Ridges Moraine Conservation Act, 2001*
- Reverses the repeal of the *Duffins Rouge Agricultural Preserve Act, 2005*

Bill 131: *Transportation for the Future Act, 2023*

- Amends *City of Toronto Act, 2006* to allow TTC to enter into an agreement with a municipality authorizing the municipality to operate or maintain a local passenger transportation system within the City

Bill 131: *Transportation for the Future Act, 2023*

- Enacts the *Go Transit Station Funding Act, 2023*
- The council of a municipality may, by by-law, impose transit station charges on development to pay for costs related to the construction of a new GO transit station.
- Will apply to prescribed municipalities

Bill 134: *Affordable Homes and Good Jobs Act, 2023*

Amends the *Development Charges Act, 1997* to redefine what is considered to be an “affordable residential unit”.

For rental units:

- " 1. The rent is no greater than the lesser of,
 - i. the income-based affordable rent for the residential unit set out in the Affordable Residential Units bulletin, as identified by the Minister of Municipal Affairs and Housing in accordance with subsection (5), and*
 - ii. the average market rent identified for the residential unit set out in the Affordable Residential Units bulletin"**

Bill 134: *Affordable Homes and Good Jobs Act, 2023*

Amends the *Development Charges Act, 1997* to redefine what is considered to be an “affordable residential unit”.

For non-rental units:

- " 1. The price of the residential unit is no greater than the lesser of,*
- i. the income-based affordable purchase price for the residential unit set out in the Affordable Residential Units bulletin, as identified by the Minister of Municipal Affairs and Housing in accordance with subsection (6), and*
 - ii. 90 per cent of the average purchase price identified for the residential unit set out in the Affordable Residential Units bulletin*

Bill 134: *Affordable Homes and Good Jobs Act, 2023*

- Changes the title of the *St. Thomas - Central Elgin Boundary Adjustment Act, 2023* to *Supporting Manufacturing in St. Thomas Act, 2023*
- Amends the Act to allow the City of St. Thomas to grant assistance to a specified corporation during a specified period, despite the prohibition against bonusing.

Bill 109, the *More Homes for Everyone Act, 2022*

- On April 14, 2022, Bill 109, the *More Homes for Everyone Act, 2022*, received royal assent. This occurred two weeks after it was introduced by the provincial government on March 30, 2022.
- Changes to the approval process for zoning by-law amendment, and site plan applications will require municipalities to refund application fees if a decision is not made within the legislative timelines.
- Refunds are calculated on a graduated basis (*i.e.* 50%, 75% or 100%) depending on the number of days following the date application was deemed complete to when a decision is made by Council.
- This change initially applied to applications made on or after January 1, 2023.

Bill 109, the *More Homes for Everyone Act, 2022*

There is no fee refund for Official Plan amendment applications.

The fee refund applies in the event that a decision is not made on a zoning by-law amendment or draft plan of subdivision within the 90 or 120 days as the case may be.

For site plans, the fee refund applies in the event that the site plan is not approved within 60 days of the application being deemed complete.

The different fee refund provisions for various applications has resulted in a variety of municipal responses to this legislation.

Bill 109, the *More Homes for Everyone Act, 2022*

The intent of the legislative change was to speed up the approval process by requiring faster decisions on applications.

However that has simply not borne out in reality.

On December 22, 2022 the then Minister wrote to municipalities and stated:

Most of the Planning Act changes are now in effect except for the zoning and site plan control fee refund provisions, which are due to come into force on January 1, 2023. However, I am committed to bringing forward legislation to delay the effective date of the fee refund changes from January 1, 2023 to July 1, 2023. These legislative changes would be introduced in the new year. In the event that any fee refunds become due to applicants before these legislative changes are made, municipalities might consider not issuing refunds in the interim given my express commitment to introduce legislation that, if passed, would retroactively cancel the requirement.

Bill 109, the *More Homes for Everyone Act, 2022*

Municipalities have responded by implementing new requirements for applications to be deemed complete. This has included changes to the process which may or may not be in an Official Plan.

You will recall, the Planning Act states:

(10.1) A person or public body that applies for an amendment to a by-law passed under this section or a predecessor of this section shall provide the prescribed information and material to the council.

(10.2) A council may require that a person or public body that applies for an amendment to a by-law passed under this section or a predecessor of this section provide any other information or material that the council considers it may need, but only if the official plan contains provisions relating to requirements under this subsection.

Bill 109, the *More Homes for Everyone* Act, 2022

Some municipalities have changed their process without passing Official Plan amendments to detail new Complete Application Requirements.

Some municipalities passed an OPA, however that OPA is not yet in force and effect.

Some municipalities passed OPA's which were not appealed and are therefore in force and effect.

OPAs for Ajax, Brampton, Burlington, Caledon, Oakville, Oshawa, Pickering, Vaughan and Toronto have been appealed. I understand that the Oakville appeal has settled.

The remaining are outstanding and those new Complete Applications requirements are not in force and effect.

There has been an increase in the need for motions for determination of a complete application.

Latest Press Release

On December 13, 2023 the Province issue a press release that was titled: Ontario Taking Action to Support Municipal Partners in Building More Homes and Protecting Taxpayers.

This press release suggest that further reversals to the work that was done by the Housing Action Plan and the legislation flowing from that, being Bills 109 and Bill 23 are forthcoming.

Planning Statute Law Amendment Act, 2023 was passed prior to the consultation period being over and prior to the timeframe that was given to municipalities to provide their feedback on the proposed rollbacks.

As such additional legislation is required to implement changes coming from the feedback related to Bill 150 that came out after it was given Royal Assent, and changes resulting from the municipal consultation period.

Latest Press Release

The press release also advised that we can expect legislation in the new year with respect to the following:

- Recalibrate the mandate of the Peel Region Transition Board to focus on making local government in Peel Region more efficient and responsive to the needs of taxpayers, including by improving regional services like policing, paramedics and public health, instead of dissolution. The new mandate asks the Transition Board to bring forward recommendations on optimizing the delivery of services that support the commitment to build more homes, including land-use planning, servicing, roads and waste management with the goal of removing the duplicative layer of regional bureaucracy.

Latest Press Release

The press release made a significant announcement with respect to Minister Zoning Orders:

- Reviewing those MZOs which require additional downstream approvals needed for project development and implementation; and
- Addressing water and wastewater servicing within a reasonable timeframe.

This is under the “use it or lose it” philosophy.

Latest Press Release

There are a number of non-housing related MZOs which are currently being consulted on for proposed amendment or revocation. Feedback required by January 27, 2024.

For housing related MZO's a number of them are under enhanced monitoring because they are showing a lack of progress. These sites will potentially be considered for future revocation or amendment, or to add an expiry date in the future if they fail to make substantial progress. All sites are identified on the ERO.

Other than for three specific MZOs, the province will launch consultations on a go-forward framework for how requests for zoning orders will be received and considered and the province will not consider or issue any other zoning order requests until the completion of consultations on the go-forward framework.

Latest Press Release

The definition of attainable housing will apply only to modular home demonstration sites, including surplus provincial lands and surplus lands made available by municipalities, in order to incentivize early development of modular, attainable homes. The province will be consulting with key stakeholders over the coming months on this definition of attainable.

The province will engage in consultations with its municipal partners on the impacts of the Bill 23: *More Homes Built Faster Act* and municipalities' ability to fund growth-related infrastructure that will support the construction of more homes, including a review of the five-year phase-in of development charge increases and fee refund framework.

Latest Press Release

The following potential changes will be consulted on for inclusion in upcoming legislation:

- The requirement to phase-in development charge rates over five years for development charge by-laws passed as of January 1, 2022;
- The removal of studies as an eligible capital cost for development charges; and
- The planning application fee refund framework introduced through the *More Homes For Everyone Act*.

Development charge exemptions and reductions for non-profit, affordable and purpose-built rental homes will remain unchanged.

Strong Mayor Powers & Land Use Planning Matters

- Strong Mayor Powers were granted to the City of Toronto and City of Ottawa in the Fall of 2022 through the enactment of Bill 3, *Strong Mayors, Building Homes Act, 2022*
- These powers were then expanded to 26 other municipalities in Ontario on July 1, 2023

Strong Mayor Powers & Land Use Planning Matters

- The Province's stated purpose for the Strong Mayor Powers is to offer tools to help Heads of Council cut red tape and speed up the delivery of shared municipal-provincial priorities such as housing, transit and infrastructure in their municipalities

Strong Mayor Powers & Land Use Planning Matters

- Part VI.1 of the *City of Toronto Act*, and Part VI.1 of the *Municipal Act*, grant the Strong Mayor Powers to those municipalities that have been designated by the Minister.
- The Municipalities that are designated to have Strong Mayor Powers, and additional rules regarding the use of Strong Mayor Powers are contained in O. Reg 529/22 for the City of Toronto, and O. Reg 530/22 for all other designated municipalities.

Strong Mayor Powers & Land Use Planning Matters

- In summary, and as it relates specifically to Land Use Planning matters, the Strong Mayor Powers permit the Mayor to:
 - (1) Provide certain directions to municipal employees.
 - (2) Hire / Dismiss the head of the planning department and/or reorganize the organizational structure of the municipality in a manner that impacts the planning department.

Strong Mayor Powers & Land Use Planning Matters

- (3) The Mayor may, despite any procedural by-law passed by the municipality, require Council to consider a matter at a Council meeting if in the Mayor's opinion it would advance a prescribed provincial priority.
- (4) The Mayor may, subject to certain restrictions and procedural requirements, veto a by-law made under the *Planning Act* if the Mayor is of the opinion that the bylaw will interfere with a prescribed provincial priority.

Strong Mayor Powers & Land Use Planning Matters

- (5) The Mayor may, subject to certain restrictions and procedural requirements, present and have passed with more than one-third of Council's support a bylaw made under the *Planning Act* if the Mayor is of the opinion that the bylaw could potentially advance a prescribed provincial priority.

Strong Mayor Powers & Land Use Planning Matters

- The prescribed provincial priorities are as follows:
 - (a) Building 1.5 million new residential units by December 31, 2031.
 - (b) Constructing and maintaining infrastructure to support housing, including, transit, roads, utilities and servicing

Strong Mayor Powers & Land Use Planning Matters

- Process to Veto a *Planning Act* By-law
 - (1) Written Notice of Intent to Veto
 - (2) Veto Document including reasons for Veto
 - (3) Time Limit on Vetoing a Bylaw
 - (4) Notice of Veto Document
 - (5) Effect of Veto
 - (6) Override of Veto
 - (7) Effect of Override
 - (8) Next steps on *Planning Act* bylaw after refusal or approval (after a veto override vote) pursuant to the Strong Mayor Powers

Strong Mayor Powers & Land Use Planning Matters

- Process to Pass a *Planning Act* By-law
 - (1) Head of Council is of the opinion that the prescribed provincial priority is advanced by the *Planning Act* Bylaw
 - (2) Head of Council to provide copy of *Planning Act* By-law
 - (3) *Planning Act* By-law is passed if more than one third of Council vote in favor
 - (4) *Planning Act* Bylaw would be subject to ordinary *Planning Act* requirements related to the passing of such a bylaw



Strong Mayor Powers & Land Use Planning Matters

Implications & Other Matters



Questions?

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