

ACTION REQUEST – Planning Services	
To:	Warden and Members of Council
Date of Meeting:	May 15, 2023
Subject:	Bill 97 and Draft Provincial Policy Statement: Implications for SDG

RECOMMENDATIONS:

THAT the Council of the United Counties of Stormont, Dundas and Glengarry receive the “Bill 97 and Draft Provincial Policy Statement Implications for SDG” report and direct staff to submit comments to the Province reflecting the report and any implications that updated Natural Heritage policies will have on SDG.

EXECUTIVE SUMMARY:

This report summarizes the effect new provincial planning legislation and proposed updates to Provincial policies will have on SDG and local municipalities.

BACKGROUND:

On April 6, 2023, the province introduced Bill 97, the *Helping Homebuyers, Protecting Tenants Act*. Bill 97 proposes changes to several pieces of legislation, including the Residential Tenancies Act, the Planning Act, and the Development Charges Act. A proposed update to the Provincial Policy Statement (PPS) was also released for consultation. The PPS provides provincial direction for land use planning matters including managing growth, avoiding hazards, and protecting resources. All municipal planning decisions must be consistent with the PPS, and local planning policies and by-laws must be updated to reflect the document. The draft 2023 PPS integrates the Provincial Policy Statement, 2020 with A Place to Grow: Growth Plan for the Greater Golden Horseshoe to create a single, province-wide land use planning policy document. Comments on the draft are due on June 6th.

Several legal firms have prepared [tracked changes](#) versions and overall [summaries](#) comparing the 2020 and 2023 PPS. Many of those changes are specific to municipalities within the Greater Golden Horseshoe, as the new PPS consolidates their existing provincial plans and policies. This staff report focuses on the key changes that would most affect development within SDG.

Bill 97

Bill 97 primarily addresses protections for tenants and homebuyers and responds to issues of affordable and fair housing. The commenting period for Bill 97 has already closed on the Environmental Registry and committee hearings for the Bill concluded on May 11. The primary effects of Bill 97 relating to planning are:

- Delay the requirement for municipalities to refund zoning by-law and site plan application fees so that it only applies to applications submitted on or after July 1, 2023 (previously it was to come into effect on January 1, 2023) The Minister would also have the authority to be able to exempt municipalities from the fee refund provisions in the future if needed.
- Clarify that the existing provisions regarding parking spaces for additional residential units apply only to the second and third units on a property.
- Create regulation-making authority to prescribe specific circumstances where site plan control could be used for residential developments of 10 units or less. It is proposed through a separate consultation that site plan control could be used again for lower density residential development near waterfront and rail lines, after being removed through previous legislation. This change is supported by staff.
- Amend rules and timelines for appeals of Interim Control By-laws, generally providing additional notice.
- Giving the Minister authority to exempt certain subsequent approvals required to establish uses permitted by Minister's zoning orders from having to align with provincial plans or policies.
- Giving the Minister of Municipal Affairs and Housing wthe authority to require landowners to enter development agreements in relation to lands that have been assigned to the Provincial Land and Development Facilitator This position is used more frequently in Southern Ontario to resolve issues among the province, municipalities, and developers.

Agricultural Lot Severances

The most significant change affecting SDG in the new PPS is the proposal to allow for residential lot creation in prime agricultural areas. The PPS currently prohibits creating new vacant residential lots in prime agricultural areas. Only existing surplus farm residences can be severed from the main farm holding, with a condition that the retained land be rezoned to prohibit residential development. While this policy would remain in place, the 2023 draft PPS would also allow for new residential lot creation in prime agricultural areas, provided that:

1. agriculture is the principal use of the existing lot or parcel of land;
2. the total number of lots created from a lot or parcel of land as it existed on January 1, 2023 does not exceed three;
3. any residential use is compatible with, and would not hinder, surrounding agricultural operations; and
4. any new lot:
 - i. is located outside of a specialty crop area;
 - ii. complies with the minimum distance separation formulae;
 - iii. will be limited to the minimum size needed to accommodate the use while still ensuring appropriate sewage and water services;

- iv. has existing access on a public road, with appropriate frontage for ingress and egress; and
- v. is adjacent to existing non-agricultural land uses or consists primarily of lower-priority agricultural lands.

The PPS also specifically states that Official Plans and Zoning By-laws may not contain provisions that are more restrictive than the above policies except to address public health or safety. The County Road policies in the Official Plan are intended to address public health and safety concerns and staff's interpretation is that policies restricting new residential lot creation on County Roads would still apply to any new residential severance in the Agricultural Resource Lands designation.

The draft PPS would also allow for additional residential units on agricultural properties:

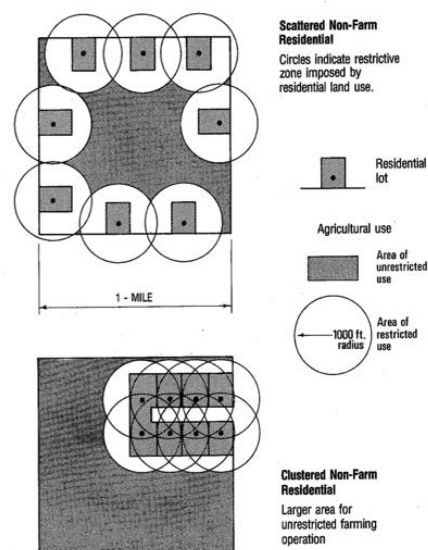
Subordinate to the principal dwelling, up to two additional residential units may be permitted in prime agricultural areas, provided that:

- a) any additional residential units are within, attached to, or in close proximity to the principal dwelling;*
- b) any additional residential unit complies with the minimum distance separation formulae;*
- c) any additional residential unit is compatible with, and would not hinder, surrounding agricultural operations; and*
- d) appropriate sewage and water services will be provided.*

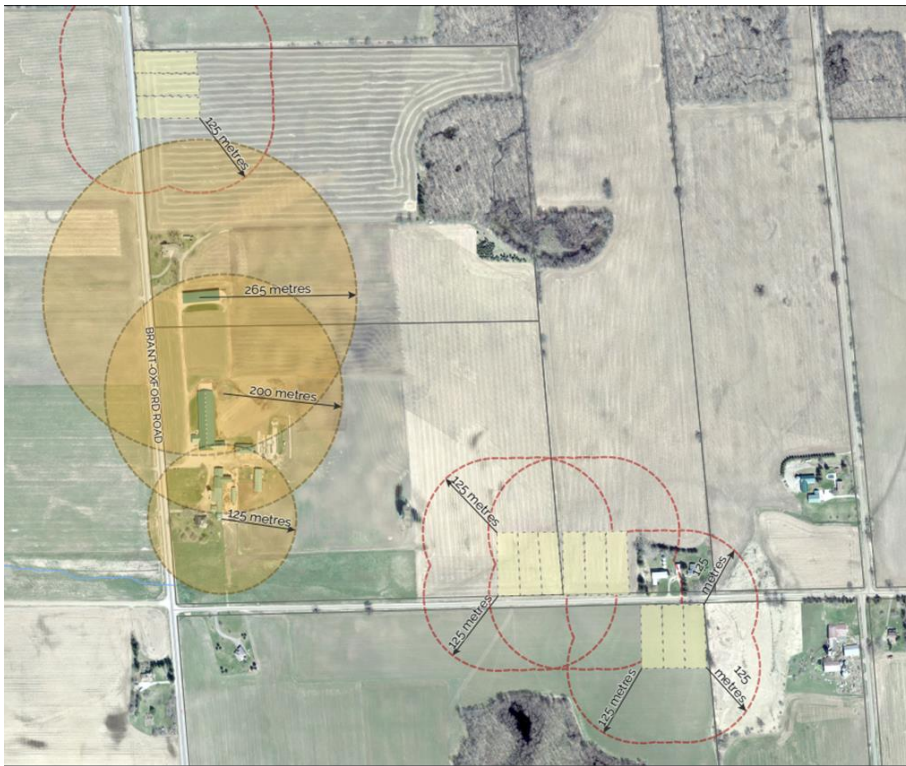
The overall proposal is significant change overturning decades of provincial policy that strongly discouraged or prohibited scattered residential development in prime agricultural areas. Staff do not support the proposed policy change, which is anticipated to create additional conflicts between farmers and residents, discourage development within villages, increase demand for service on rural roads, and reduce the ability of livestock facilities to expand. Thousands of non-farm residential lots could be created within SDG's agricultural areas. The criteria proposed are open to interpretation (such as being "adjacent to existing non-agricultural uses") and do not consider other resources such as aggregate.

Image from Countryside Planning (1976)

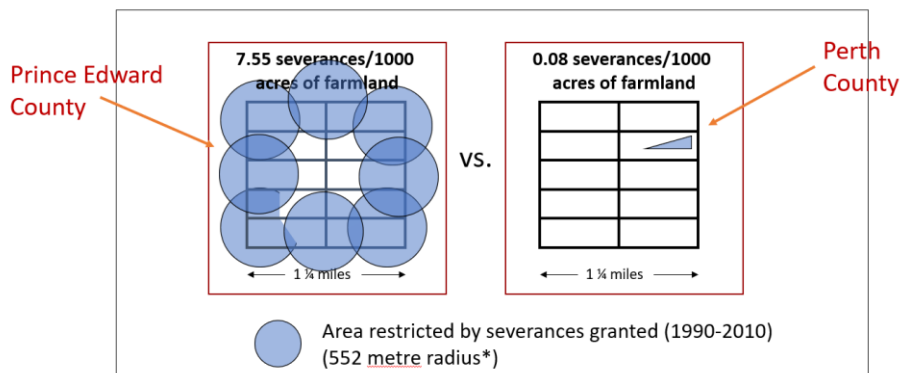
Diagram 3. Scattered vs Clustered Non-farm Residential Development.



The diagrams below were prepared by Brant County (Dr. Pam Duesling) and Dr. Wayne Caldwell and show the impact additional residential development has on livestock expansion. If these new residential lots were permitted throughout the County, it would significantly impact the ability of large and small farms to establish and grow.



Agricultural Land Restricted by the Creation of Non-farm Residential Lots (1990- 2010)



* The area identified as restricted is based on the application of Minimum Distance Separation for a proposed 2000 feeder hog operation on liquid manure (7.55 vs. .08 represents the county/region with the highest number of lots approved vs. the lowest)

Growth, Population and Settlement Areas

The requirement for a Comprehensive Review to identify a new settlement area or expand a settlement area boundary has been removed in the proposed 2023 PPS, which is another major reversal of provincial planning policies. Municipalities could consider settlement area expansions at any time and do not have to “swap” lands if there is room to grow within the settlement area. The current maximum 25-year planning horizon for growth would become the minimum planning horizon, and settlement areas could be designed to accommodate growth well beyond 25 years. The tests to evaluate settlement area creation and expansion are simplified and more flexible. Servicing, proper phasing of development, and impacts on agriculture would still need to be considered. It appears that there would not be a restriction on landowner applications for expansions, but these applications would not be able to appeal a refusal.

Generally, these changes to increase the flexibility of settlement area expansions are supported by staff. When using the current methodology, it is difficult to forecast which parcels will be subject to growth pressures. Some landowners of large parcels suitable for subdivision development will have no intention to build but will still resist proposals to re-allocate that land to other properties since it would affect future resale value. The current practice limits the number of parcels available for subdivision development and increases cost pressure on those parcels.

Staff have some concerns that there does not appear to be an upper limit on growth and smaller hamlets may see significant growth pressures, along with proposals coming forward to establish new settlement areas based on the more flexible criteria. However, this may also lead to those hamlets being able to support new amenities and smaller scale growth that is currently not permitted, since these settlement areas were significantly reduced in size to reallocate those lands to larger villages.

Employment Areas

The definition of “employment areas” is proposed to be changed in both the Planning Act and the new PPS to only include areas with heavy industry, manufacturing, and large-scale warehousing. It does not include commercial, institutional, retail or office, other than for accessory uses. Employment uses not included in the new definition are required to permit mixed-use development, and municipalities cannot have Official Plans and Zoning By-laws that are more restrictive than this except to consider issues of public health and safety and allowing appropriate transition from industrial uses to avoid adverse effects.

The draft PPS has language that would allow the removal of lands from an employment area to permit other uses without the requirement for a Comprehensive Review. Municipalities can consider the removal of land from employment areas where it can be demonstrated that there is a need for the removal, the land is not required for employment purposes, the proposed uses will not negatively impact the overall viability of the employment area, and infrastructure is planned or available to accommodate the proposed use. The Planning Act continues to limit the ability to appeal refusals or non-decisions of these types of applications from landowners.

The growth and population study that SDG is currently undertaking includes a review of these employment areas to make sure that they are still appropriate, and some changes to the Official Plans designations may be required to separate true “industrial parks” from individual employment sites and other more commercial developments. Generally, this direction is supported by staff provided appropriate separation distances and transition areas can still be implemented.

Natural Heritage

The draft PPS document does not include updated natural heritage policies, which are proposed to be released at a later unknown date and were not available as of the writing of this report. This policy section has major implications on planning in SDG with its large rural and resource-based geography and will also affect implementation of the Natural Heritage Study that was recently completed. The Community Planner (Environmental) recruitment process is currently paused, pending review of these policies and the implications for SDG. Should these policies be released prior to the next Council meeting without a deadline extension, staff will add additional information and advise Council.

Rural Development

Some other wording changes include removing references to directing development in rural settlement areas, adding language that allows estate residential development where site servicing is appropriate, and removing language on promoting compatibility with the rural landscape. These are generally included in the document because some of those uses were not permitted through the Growth Plan affecting Southern Ontario.

While rural housing is part of the culture and character of SDG, unrestricted growth may have consequences. With the potential for up to three lots in agricultural areas being permitted, it is anticipated the rural severance limits would also be reviewed. This will remove productive farmland, increase demands for service in less dense areas, impact the environment, and may affect the overall character of the rural landscape by removing open countryside views (through “strip development”) and reducing opportunities for livestock and resource development.

It is anticipated that reviewing the severance limit will be an important decision of this Council term. The rural landscape includes a balance of natural resources, housing, agriculture, aggregate operations, environmental features, and rural commercial/industrial uses. While the proposed PPS language is stronger in promoting housing than the 2020 version, it does not have the same mandatory criteria as the proposed agricultural severance policies. SDG can still make decisions on how to implement these rural policies, protect important resources and allow for locally appropriate rural development.

OPTIONS AND DISCUSSION:

1. THAT the Council of the United Counties of Stormont, Dundas and Glengarry receive the "Bill 97 and Draft Provincial Policy Statement Implications for SDG" report and direct staff to submit comments to the Province reflecting the report and any implications that updated Natural Heritage policies will have on SDG. **(Recommended)**
2. That Council receive the "Bill 97 and Draft Provincial Policy Statement Implications for SDG" report.
3. Other

FINANCIAL ANALYSIS:

Staff resources will be required to implement the changes into the Official Plan and some consultant resources may be required for technical studies. Existing consultant work plans such as the population and growth study and local zoning by-law updates will need to be revised to be consistent with the new PPS, which may require re-doing existing work completed to date and increasing costs.

LOCAL MUNICIPAL IMPACT:

The County Official Plan, local zoning by-laws and all planning decisions will need to be consistent with the new PPS once it is implemented.

RELEVANCE TO STRATEGIC PRIORITIES:

Bill 23 affects **Service Delivery – A Smarter Approach**, as municipalities may need to look at new ways of sharing resources with potential downloading of costs.

OTHERS CONSULTED:

- County Planning Directors

ATTACHMENTS: N/A



RECOMMENDED BY:

Peter Young
Director of Planning Services

APPROVED BY:

Maureen Adams, CAO