



# The Regional Municipality of Durham Report

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To: Planning and Economic Development Committee  
From: Commissioner of Planning and Economic Development  
Report: #2019-P-42  
Date: October 1, 2019

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**Subject:**

Provincial Policy Statement Review, Proposed Policies (ERO #019-0279), File: L35-03

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**Recommendation:**

That the Planning and Economic Development Committee recommends to Regional Council:

- A) That Commissioner's Report #2019-P-42 be endorsed as Durham Region's response to the Environmental Registry's posting (ERO #019-0279) for the Provincial Policy Statement Review – Proposed Policies, including the following recommendations:
- i) That, for clarification purposes, the term "Provincial Interest" be defined in the PPS, or that a reference to section 2 of the Planning Act be included;
  - ii) That a policy be included in Policy 1.1.1 that encourages the preparation and implementation of community energy plans as a component of planning for healthy, liveable and safe communities;
  - iii) That the term "market-based" in Policy 1.1.1.(6) be revised to "market informed" to better reflect the provincial policy-led planning system, and the Region's long-term planning objectives that support the provision of affordable and supportive housing, while encouraging a more compact urban form that is sensitive to local conditions;
  - iv) That the Province be requested to either release an updated Land Needs Assessment guidance document, or confirm the existing draft document, to

help the Region advance Envision Durham, the Region's Municipal Comprehensive Review;

- v) That the PPS continue to use the word "shall" in policies 1.1.3.6, 1.1.3.7 and 1.6.7.2 to assist with the implementation of orderly and sequential development and complete communities;
- vi) That the references to Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety of the PPS be reinstated in Policy 1.1.3.8 to ensure that the review of Settlement Area boundaries is systematic, well planned and comprehensive;
- vii) That natural heritage and hydrologic systems be added as criteria for consideration in the adjustment of Settlement Area boundaries to ensure that these reviews are systematic, well-planned and comprehensive and in sync with the Growth Plan;
- viii) That the proposed wording changes to the land use compatibility policies in Policies 1.2.6.1 and 1.2.6.2 not be supported, as the changes could lead to greater conflict between sensitive uses and industrial/manufacturing uses;
- ix) That the Province be requested to provide additional guidance regarding the appropriate transition area, or distance separation, between industrial and manufacturing uses and non-employment uses, including providing additional clarity regarding Places of Worship that are regarded as sensitive land uses;
- x) That the term "regional economic development corporation" in Policy 1.3.2.5 be changed to "Planning Authority" to be consistent with other policies in the PPS;
- xi) That the Province be requested to confirm whether it intends to release updated population and employment forecasts for the Greater Golden Horseshoe that would allow the Region to use a 25-year planning horizon in its Municipal Comprehensive Review;
- xii) That the Province clarify that the upper-tier planning authority is the level which has responsibility for ensuring residential growth can be accommodated for a minimum of 12 years, and that the three-year supply of residential units is also maintained at the Regional level. In addition, it should be clarified that the upper or single-tier municipality would be responsible for defining the "regional market area";

- xiii) That the proposed wording changes to Policy 1.6.6.3 be revised to address and safeguard the financial and operational risks to a municipality associated with privately-owned communal services;
  - xiv) That proposed Policy 1.6.6.7 of the PPS be deleted related to the integration of stormwater and water/sewer planning, as the responsibilities of municipalities in single-tier and two-tier systems differ;
  - xv) That Policy 1.6.7.5 not be deleted as its removal is inconsistent with the PPS overall, as the Province and municipalities are to support the timely planning and implementation of transportation infrastructure improvements, coincident with the scale and pace of development, and the failure to provide this statement does not support the principle of promoting transit supportive development;
  - xvi) That, for clarification purposes, the term “wayside” not be deleted from the heading in Policy 2.5.5, as the policy is specific to wayside pits and quarries;
  - xvii) That the Province provide guidance regarding how excess fill can be managed by the planning and development approvals process and suggest that excess fill can be managed through engineering approvals for developments following the draft approval stage;
  - xviii) That the definition of the term “conserved” remain the same as per the 2014 PPS to recognize that municipalities do not have the authority to “approve” or adopt archaeological and heritage impact assessments; and
  - xix) That a reference to climate data be added to the definition of “impacts of a changing climate”.
- B) That a copy of this report be forwarded to the Ministry of Municipal Affairs and Housing, and Durham’s area municipalities and conservation authorities.
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**Report:****1. Purpose**

- 1.1 The purpose of this report is to respond to ERO Posting #019-0279 which requests comments on proposed changes to the current (2014) Provincial Policy Statement (PPS).

## 2. Background

- 2.1 The Planning Act requires that the Minister of Municipal Affairs and Housing undertake a review of the PPS, at a minimum, every ten years. On July 22, 2019 the Province released, for consultation purposes, proposed policy changes to the 2014 PPS. A copy of the proposed changes to the PPS can be downloaded from the province's website [Provincial Policy Statement Review Proposed Policies](#). The deadline for comment is October 21, 2019. A copy of this report will be sent to the Minister following receipt by Committee, recognizing that formal comments from the Region will be sent following the Regional Council on October 23, 2019. Ministry of Municipal Affairs and Housing staff have been advised they will be receiving the Region's official comments shortly after the deadline.
- 2.2 The current version of the PPS came into effect April 30, 2014. The PPS provides policy direction on matters of provincial interest related to land use planning and development. The PPS applies province-wide, and not just to the municipalities within the Greater Toronto Area. The PPS sets the policy foundation for regulating the development and use of land and is complemented by provincial plans such as the Growth Plan for the Greater Golden Horseshoe (A Place to Grow), the Greenbelt Plan, and the Oak Ridges Moraine Conservation Plan.
- 2.3 The PPS fosters conditions for development, while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. The PPS supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.
- 2.4 The PPS consists of:
- a. A preamble; description of legislative authority, how to read the PPS; and Vision for Ontario's Land Use Planning System,
  - b. A set of detailed policies addressing three major areas of Provincial interest:
    - Building Strong Healthy Communities;
    - Wise Use and Management of Resources;
    - Protecting Public Health and Safety;
  - c. An explanation of how the PPS is to be implemented and interpreted;
  - d. A Natural Heritage Protection Reference map; and
  - e. Definitions.

- 2.5 The Durham Regional Official Plan (ROP) implements the PPS and provincial plans by providing Durham Region specific policies. The ROP defines the intent of Regional Council in the guidance of growth and development in the Region. In exercising its approval authority, Regional Council ensures that the area municipal official plans and amendments are consistent with the ROP, the PPS and provincial plans.

### 3. Proposed Revisions to the PPS

- 3.1 According to the Province, the proposed revisions are intended to:

- Encourage the development of an increased mix and supply of housing;
- Protect the environment and public safety;
- Reduce barriers and costs for development and provide greater predictability;
- Support rural, northern and Indigenous communities; and
- Support the economy and job creation.

### 4. Comments

- 4.1 The comments below are presented by section, with specific recommendations in **bold**.

#### Preamble

- 4.2 A proposed new paragraph in the Preamble states that “official plans shall provide clear, reasonable and attainable policies to protect provincial interests and direct development to suitable areas”. It is unclear if the term is referring to “provincial interests” as defined within section 2 of the Planning Act, 1990 or whether it includes other interests. **It is recommended, for clarification purposes, that the term “Provincial Interest” be defined in the PPS, or that a reference to section 2 of the Planning Act be included.**

#### Building Strong Healthy Communities

- 4.3 Section 1.1 of the PPS provides direction on managing and directing land use to achieve efficient and resilient development and land use patterns. In Durham, a Community Energy Plan has been endorsed to improve energy efficiency, support the development of renewable energy, reduce air pollution and support economic development initiatives based on a low carbon pathway. The reduction in energy use and reduced GHG emissions depends on the implementation of compact urban form, the implementation of robust transit services, the construction of

energy efficient buildings, and the development of diverse energy resources.

**Although policy 1.1.1 of the PPS is consistent with these objectives, it is recommended that a policy be included that encourages the preparation and implementation of community energy plans as a component of planning for healthy, liveable and safe communities.**

- 4.4 A proposed change to the PPS includes changes to Policy 1.1.1 b) which currently states: “[*Healthy, liveable and safe communities are sustained by*] b) *accommodating an appropriate range and mix of residential (including second units affordable housing and housing for older persons)...*” The policy is proposed to be revised such that municipalities would be required to plan for “accommodating an appropriate market-based range and mix of residential types”. The term “market-based” has been included several times throughout the document. This proposed change is at odds with Ontario’s provincial policy-led planning system<sup>1</sup>. This approach would require planning for development that is dictated by the current market as opposed to broader long-term planning policy objectives, including the provision of affordable and supportive housing, and development practices that support the efficient use of land. Since the “market” can be affected by a wide variety of forces such as interest rates, the value of land, the geographic characteristics of sites and changing demographics, defining the market can be open to widely differing viewpoints. However, it is acknowledged that in the conduct of Land Needs Assessments (LNAs) as part of a Municipal Comprehensive Review, experts are mindful of regional market conditions and variations when they prepare development forecasts. These exercises strike a balance between accommodating forecasted housing needs while accommodating other planning policy objectives. Therefore, **it is recommended that the term “market-based” in Policy 1.1.1 (6) and throughout the document be revised to “market informed” to better reflect the provincial policy-led planning system, and the Region’s long-term planning objectives that support the provision of affordable and supportive housing, while encouraging a more compact urban form that is sensitive to local conditions.**
- 4.5 Further, since the Region is currently engaged in undertaking its Land Needs Assessment work, **it is recommended that the Province be requested to either release an updated Land Needs Assessment guidance document, or confirm**

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<sup>1</sup> The PPS states, “Ontario’s provincial policy-led planning system recognizes and addresses the complex inter-relationships among environmental, economic and social factors in land use planning. The PPS supports a comprehensive, integrated and long-term approach to planning, and recognizes linkages among policy areas.” (Part III, PPS)

**the existing draft document, to help the Region advance Envision Durham, the Region's Municipal Comprehensive Review.** In the absence of this certainty, the timing of the MCR could be delayed.

- 4.6 Transit-supportive development is enhanced by the requirement being added to several of the policies in Section 1 of the PPS, including Section 1.1.1 that promotes the integration of land use planning, growth management, transit-supportive development and the optimization of transit investments. These proposed changes are supported as they are consistent with the Region's current planning policies in both the ROP and the Region's Transportation Master Plan, 2017.
- 4.7 The nature of a number of policies throughout the PPS have been changed from "shall" to "should", making them less prescriptive. For example, the proposed PPS Policy 1.1.3.7 would read "Planning authorities should establish and implement phasing policies" as opposed to "shall" establish. There is a concern that providing discretion in this policy could enable development to proceed in a non-sequential or potentially haphazard manner. This type of wording change can be the subject of hearings at the LPAT, where debate on provincial policy intent is adjudicated. Further, the replacement of the word "shall" with "should" in policies 1.1.3.6, and 1.6.7.2 would introduce discretion for development other than "compact urban form" in designated growth areas, which is inconsistent with the PPS that provides policy direction for the efficient use of land and resources. This notion that non-sequential growth is permissible may create unnecessary confusion when interpreting PPS policies, and could detract from policies directed toward building complete communities that support transit and a healthy environment. Therefore, **it is recommended that the PPS continue to use the word "shall" in policies 1.1.3.6, 1.1.3.7 and 1.6.7.2 to assist with the implementation of orderly and sequential development and complete communities.**
- 4.8 The proposed PPS maintains the policy requiring the expansion of a settlement area boundary only at the time of a comprehensive review. However, the proposed PPS removes the requirement to examine the natural heritage system or natural hazards as the reference to Section 2, Wise Use and Management of Resources, and Section 3, Protecting Public Health and Safety, has been deleted. **It is recommended that the references to Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety of the PPS be reinstated in Policy 1.1.3.8 to ensure that the review of Settlement Area boundaries is systematic, well-planned and comprehensive.**

- 4.9 The Settlement Area boundary policies have also been revised to allow adjustments of Settlement Area boundaries outside a municipal comprehensive review if there is no net increase in land within Settlement Areas. This is consistent with the Growth Plan for the Greater Golden Horseshoe, although some of the criteria that must be satisfied are inconsistent between the two documents and could cause unnecessary confusion. For example, both the proposed PPS and the Growth Plan require that when examining Settlement Area boundary adjustments, the impact on the agricultural system be addressed, but the proposed PPS does not reference key hydrologic features or the natural heritage system. **It is recommended that natural heritage and hydrologic systems be added as criteria for consideration in the adjustment of Settlement Area boundaries to ensure that the review is systematic, well-planned and comprehensive.** This systematic evaluation of settlement area boundary expansions avoids a piecemeal and inconsistent approach.
- 4.10 Section 1.2.2 of the PPS is proposed to be revised to state that Planning Authorities **shall** (emphasis added) engage with Indigenous communities and coordinate on land use planning matters. The current PPS “encourages” Indigenous engagement. Over the past few years, the Region has been working to enhance its engagement practices with Indigenous communities through staff education and training, as well as through engagement on the Community Strategic Plan and the Municipal Comprehensive Review. As such, the proposed change to the PPS is consistent with Regional practice. However, this new requirement may have an impact on Regional staff’s ability to meet the new (shorter) planning application approval timelines, depending on a First Nation Council’s capacity to review and comment on planning applications.
- 4.11 Major industrial/manufacturing facilities are to be planned to avoid impacts on sensitive land uses. The land use compatibility policies in the PPS speak to the potential adverse effects from odour, noise and other contaminants, and risks to public health and safety. The existing PPS policies appear to be weakened through the proposed addition of a caveat statement in Policy 1.2.6.1 that states “if avoidance is not possible, minimize and mitigate any potential adverse effects”. A new policy is proposed (Policy 1.2.6.2) that indicates the conditions where avoidance is not possible, and alternative locations are not reasonable, then impacts can be minimized and mitigated in accordance with relevant guidelines and standards pertaining to odour, noise contaminants and risk to public health and safety. **It is recommended that the proposed wording changes to the land use compatibility policies in the PPS not be supported, as the changes could lead to greater conflicts between sensitive uses and**



**industrial/manufacturing uses.**

- 4.12 The proposed PPS would add a policy (Policy 1.3.2.3) to ensure an appropriate “transition” between industrial/manufacturing uses and non-employment uses. The Region is supportive of this addition as it is consistent with land use planning practices that support land use compatibility. **However, it is recommended that the Province be requested to provide additional guidance regarding the appropriate transition area, or distance separation, between industrial and manufacturing uses and non-employment uses, including providing clarity regarding facilities such as Places of Worship that are regarded as sensitive land uses.**
- 4.13 Proposed Policy 1.3.2.5 would allow for the conversion of employment areas to non-employment uses outside of a municipal comprehensive review, provided the area has not been identified as provincially significant through a provincial plan exercise or as regionally-significant by a regional economic development corporation. This is similar to policies in the Growth Plan. Staff continue to support the systematic evaluation of employment land conversion requests through the Municipal Comprehensive Review process. **As an editorial comment, it is recommended that the term “regional economic development corporation” in Policy 1.3.2.5 be changed to “Planning Authority”, to be consistent with other policies in the PPS.**
- 4.14 The land use planning horizons for the protection of employment areas has been changed from 20 years to 25 years, and the supply of housing to be maintained has changed from 10 years to 12 years. The Region is currently undertaking a Municipal Comprehensive Review of the ROP to plan for 2041 population and employment forecasts, as prescribed in Schedule 3 the Growth Plan (roughly a 20-year planning horizon). **It is recommended that the Province be requested to confirm whether it intends to release updated population and employment forecasts for the Greater Golden Horseshoe that would allow the Region to use a 25-year planning horizon in its Municipal Comprehensive Review.**
- 4.15 Under Policy 1.4.1 of the PPS, planning authorities are required to provide a mix of housing options and densities required to meet the projected requirements of current and future residents of the regional market area. In order to do so, planning authorities are directed to maintain at all times the ability to accommodate residential growth for a minimum of 12 years through residential intensification and redevelopment, and if necessary lands which are designated and available for residential development. The threshold for the accommodation of residential

growth was previously 10 years. The increase to 12 years is supported. Planning authorities are also required to maintain at all times, where new development is to occur, land with servicing capacity sufficient to provide at least a three-year supply of residential units available through lands suitably zoned to facilitate residential intensification and redevelopment, and land in draft approved and registered plans.

- 4.16 There has been confusion in the past as to whether the implementation of Policy 1.4.1 is the responsibility of the upper-tier municipality, or each individual area municipality due to the reference to “planning authorities”. This confusion has persisted, despite the policy stating it is for the “regional market area”. Although the “regional market area” is a defined term in the PPS, referring to the upper or single-tier municipality, it can be a larger area, depending on circumstances. Where a two-tier planning system is in effect, as in Durham Region, **it is recommended that the Province clarify that the upper-tier planning authority is the level which has responsibility for ensuring residential growth can be accommodated for a minimum of 12 years, and that the three-year supply of residential units is also to be maintained at the Regional level. In addition, it should be clarified that the upper or single-tier municipality would be responsible for defining the “regional market area”.**
- 4.17 Proposed revisions to Policy 1.6.6.3 would permit the implementation of private communal water services in multi-unit/lot development in rural settlements. The use of privately-owned communal services can be problematic, particularly if these services fail, and there is an expectation for the Region to assume the service. The policy should clarify that ownership and maintenance of a communal system/service would be the responsibility of the condominium corporation or private owner in perpetuity, such that it does not become a future burden to taxpayers. **It is recommended that the proposed wording changes to Policy 1.6.6.3 address the financial and operational risks to a municipality associated with communal services.**
- 4.18 Policy 1.6.6.7 states that stormwater management shall “be integrated with planning for sewage and water services”. It is unclear how this policy should be implemented as sewage, water and stormwater are independent services that serve different purposes, service areas, and flow directions. Further, within Durham Region, stormwater management is primarily the responsibility of the area municipalities, while water and sewer services are the Region’s responsibility. This proposed change to the PPS could imply that an upper-tier municipality would be responsible for stormwater management, which is a departure from current

practice. **It is recommended that Policy 1.6.6.7 of the proposed PPS be deleted related to the integration of stormwater and water/sewer planning, as the responsibilities of municipalities in single-tier and two-tier systems differ.**

- 4.19 Policy 1.6.7.5, which states: *“Transportation and land use considerations shall be integrated at all stages of the planning process”* is proposed to be deleted. This is inconsistent with the Growth Plan which takes the approach that land use and transportation need to be planned together. For example, the compact urban form required by PPS policies requires that transit and active modes of transportation be planned in tandem with this type of infrastructure. Additionally, since it is required that transit supportive considerations be incorporated into development, it is equally important that transportation and land use considerations be incorporated into all stages of the planning process to ensure that development is implemented in accordance with transit supportive policy. The deletion of this policy seems to be in conflict with other policies that support the timely planning and implementation of transportation infrastructure improvements with development, and the promotion of transit supportive development. **It is therefore recommended that Policy 1.6.7.5 not be deleted, as its removal is inconsistent with the PPS overall, as the Province and municipalities are to support the timely planning and implementation of transportation infrastructure improvements, coincident with the scale and pace of development, and the failure to provide this statement does not support the principle of promoting transit supportive development.**

### **Wise Use and Management of Resources**

- 4.20 A policy was added to allow municipalities to choose to manage wetlands not identified as Provincially Significant in accordance with guidelines developed by the Province. The impact of this policy can be further assessed when the guidelines are released by the Province, however, it appears that the policy is giving municipalities the ability to protect smaller and less-significant wetlands, which is supported.
- 4.21 The term “changing climate” has been added throughout the document, recognizing the importance of preparing for the impacts of climate change. This is an enhancement to the 2014 PPS, which focused on “considering” climate change. These additions are supported.
- 4.22 A new policy encouraging planning authorities to use an agricultural system approach is proposed to be added. The Region, has implemented this practice

through the “Prime Agricultural Areas” designation in the ROP. This change is supported.

- 4.23 Section 2.5.5 of the proposed PPS deletes the term “wayside”. A wayside pit is a temporary pit or quarry opened and used by or for a public authority solely for the purpose of a particular project/contract. It is unclear why this term would be deleted when the policy speaks to “wayside pits”. **It is recommended that, for clarification purposes, the term “wayside” not be deleted from Policy 2.5.5 as the policy is specific to wayside pits and quarries.**

### Protecting Public Health and Safety

- 4.24 There is a note at the beginning of this section stating that policies related to natural hazards are subject to ongoing review by the Province’s Special Advisor on Flooding. Further changes may be considered as a result of this review.
- 4.25 The proposed PPS adds a new policy regarding excess soil that reads as follows: *“Planning authorities should support, where feasible, on-site and local re-use of excess soil through planning and development approvals while protecting human health and the environment”*. Management of excess soil is regulated by municipalities through Fill By-laws, which are passed under the authority of the Municipal Act, 2001. **As such, it is recommended that the Province provide guidance regarding how excess fill can be managed by the planning and development approvals process. It is suggested that excess fill can be managed through engineering approvals for developments following the draft approval stage.**

### Implementation and Interpretation

- 4.26 Additionally, the Province highlights the importance it places on increasing the housing supply by adding a policy regarding the need to facilitate a timely and streamlined development approvals process, that identifies and fast-tracks priority applications, and reduces the time needed to process residential and priority applications. This direction is consistent with changes the Province has recently made to the Planning Act through Bill 108, which has shortened the timelines for the processing of Planning applications. However, the term “priority application” has not been defined, nor have any criteria been provided on how a municipality may determine priority applications. As currently written, this could lead to different interpretations across the Province. Municipalities will need to develop criteria to determine what constitutes a “priority application” (such as affordable housing and employment) in their jurisdiction, and consider what type of support will be

provided to facilitate a timely and streamlined development approvals process.

## Definitions

- 4.27 The definition of “conserved” has been revised to state that archaeological and heritage impact assessments are approved or adopted by the planning authority. Municipalities do not have the authority to do so under the Ontario Heritage Act. As such, **it is recommended that the definition of the term “conserved” remain as per the 2014 PPS to recognize that municipalities do not have the authority to “approve” or “adopt” archaeological and heritage impact assessments.**
- 4.28 The definition for “impacts of a changing climate” is very broad and refers to the potential for present and future consequences and opportunities from changes in weather patterns at local and regional levels, including extreme weather events and increased climate variability. There is no mention of quantitative data to support illustration of the impacts of a changing climate. **It is recommended that a reference to climate data be added to the definition of “impacts of a changing climate”.**

## 5. Conclusions and Recommendations

- 5.1 The province has proposed revisions to the PPS which are the subject of this report. Additional revisions are recommended to improve the effectiveness of the PPS, remove inconsistencies, and to clarify policy and terminology, as detailed in this report.
- 5.2 It is recommended that this report be endorsed as the Region’s submission to the Environmental Registry’s posting (ERO 019-0279) for the Provincial Policy Statement Review – Proposed Policies.
- 5.3 This report was prepared in consultation with Corporate Services – CAO’s Office, Corporate Services – Legal Services, the Works Department and Social Services – Housing Services.

Respectfully submitted,

Original signed by

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Brian Bridgeman, MCIP, RPP  
Commissioner of Planning and  
Economic Development

Recommended for Presentation to Committee

Original signed by

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Elaine C. Baxter-Trahair  
Chief Administrative Officer