



Provincial Land Use Plans Branch
13th Floor, 777 Bay St
Toronto, ON M7A 2J3

May 10, 2024

Via email: growthplanning@ontario.ca

RE: ERO No. 019-8462 Review of proposed policies for a new provincial planning policy instrument

The Canadian Environmental Law Association (“CELA”) makes the following recommendations to strengthen the new proposed Provincial Planning Statement, 2024 (“PPS 2024”), ERO No. 019-8462. CELA is opposed to the revocation of *A Place to Grow: Growth Plan for the Greater Golden Horseshoe* (“Growth Plan”). Its goal and policy approach should be maintained to better protect against sprawl development in the populous Greater Golden Horseshoe region.

The proposed amendments to the PPS will worsen the climate crisis and encourage sprawl development.¹ CELA notes that the Report of the Ontario Housing Affordability Task Force explicitly stated that a “shortage of land isn’t the cause of the [housing availability] problem.”²

CELA supports amendments to redevelop under-utilized commercial and institutional sites for residential use. We also support provisions that incorporate source protection planning.

A. Canadian Environmental Law Association

CELA is a specialty legal aid clinic that works toward protecting public health and the environment by seeking justice for those harmed by pollution or poor decision-making and by advocating for improvements to laws and policies to prevent problems in the first place. Since 1970, CELA has used legal tools, conducted public legal education, undertaken ground-breaking research, and advocated for increased environmental protection and to safeguard communities. As a specialty clinic funded by Legal Aid Ontario, our primary focus is on assisting and empowering low-income, disproportionately impacted, and vulnerable communities to further access to environmental justice.

Since our inception, CELA’s casework, law reform and public outreach activities have included work on behalf of our client communities on land use planning matters at the provincial, regional and local levels in Ontario. For example, CELA lawyers provide summary advice and represent

¹ Dianne Saxe, “Why Urban Sprawl is Ontario’s Oil Sands,” Ontario Professional Planners Institute (February 3, 2020). *See also* Environmental Commissioner of Ontario, “Urban Sprawl: The Road to Gridlock,” in Energy Conservation Progress Report (2019) at 130-173.

² Report of the Ontario Housing Affordability Task Force, (February 8, 2022) at 10, online: <https://files.ontario.ca/mmah-housing-affordability-task-force-report-en-2022-02-07-v2.pdf>

low-income persons and vulnerable communities involved in disputes under the *Planning Act* in relation to official plans, zoning by-laws, subdivision plans, and other planning instruments.

B. The *Places to Grow Act* and the Growth Plan Are Important Land Use Planning Instruments and Should be Maintained

The *Places to Grow Act, 2005* (“PGA”) was enacted to direct urban growth away from important natural heritage and agricultural areas. The PGA directs where and how urban growth can occur while ensuring protection of the natural environment and agricultural lands. Section 1 of the PGA sets out the following four purposes:

- (a) to enable decisions about growth to be made in ways that sustain a robust economy, build strong communities and promote a healthy environment and a culture of conservation;
- (b) to promote a rational and balanced approach to decisions about growth that builds on community priorities, strengths and opportunities and makes efficient use of infrastructure;
- (c) to enable planning for growth in a manner that reflects a broad geographic perspective and is integrated across natural and municipal boundaries;
- (d) to ensure that a long-term vision and long-term goals guide decision - making about growth and provide for the co-ordination of growth policies among all levels of government.³

The preamble of the PGA further states that “identifying where and how growth should occur will support improved global competitiveness, sustain the natural environment and provide clarity for the purpose of determining priority of infrastructure investments.”⁴

When the PGA was introduced in the Ontario Legislative Assembly in 2004, the Hon. David Caplan, Minister of Public Infrastructure Renewal, explained that a new approach was needed to better protect the environment and agricultural lands from growth. These issues remain critically important to the health of our communities:

This proposed legislation would ensure **that whatever we do, we would always ensure the protection of our environment, our agricultural lands and our natural resources** (emphasis added).⁵

By the year 2031, we estimate that more than four million additional residents will call Ontario home. We must plan now for that growth. We must build in a way that integrates and brings together all the elements required to build strong communities and a robust

³ *Places to Grow Act, 2005*, SO 2005, c 13, (“PGA”), ss 1(a)-(d).

⁴ *PGA*, preamble.

⁵ Ontario Legislative Assembly, Official Report of Debates (Hansard), 38th Parl, 1st Sess, No 80A (October 28, 2004).

economy, while at the same time protecting the environment and other valuable natural resources.⁶

[...]

By showing where growth should occur, it will help us to develop the public infrastructure needed to support that growth, **while at the same time protecting for future generations the green spaces so much a part of the kind of quality of life that we want; and support the agricultural lands that we're going to need to support our population and the natural systems that we desperately need to preserve.** Those are the places where growth should not occur (emphasis added).⁷

[...]

So in some parts of Ontario we got sprawl, gridlock, air pollution, inefficient use of infrastructure and lost green spaces... That is not a pattern we are willing to repeat (emphasis added).⁸

The Growth Plan is the instrument through which the PGA achieves its objectives, including that urban growth and infrastructure is directed away from important natural heritage features and systems and agricultural lands. The Growth Plan created Natural Heritage Systems and Agricultural Systems which have not been maintained in the proposed PPS 2024. The Growth Plan provides for a strong policy framework to protect a very populous area of the province from sprawl development. There has been no evidence provided to demonstrate why this approach is no longer needed.

The PGA and the Growth Plan should be maintained.

Recommendation

The Growth Plan should not be combined with the Provincial Planning Statement.

C. Analysis of the Proposed Provincial Planning Statement, 2024

On the basis of CELA's decades-long experience in land use planning matters throughout Ontario, CELA has carefully considered this proposal from the public interest perspective of our client communities. CELA recommends the following amendments to the proposed PPS 2024 to discourage sprawl development and better protect the environment.

⁶ Ontario Legislative Assembly, Official Report of Debates (Hansard), 38th Parl, 1st Sess, No 80A (October 28, 2004).

⁷ Ontario Legislative Assembly, Official Report of Debates (Hansard), 38th Parl, 1st Sess, No 114 (March 2, 2005).

⁸ Ontario Legislative Assembly, Official Report of Debates (Hansard), 38th Parl, 1st Sess, No 114 (March 2, 2005).

1. CELA RECOMMENDS THE FOLLOWING AMENDMENTS TO THE PROPOSED PPS 2024

(a) Optional Minimum Targets for Intensification, Redevelopment, and Density

CELA recommends maintaining the mandatory intensification targets in the Growth Plan. The proposed amendments in PPS 2024 will discourage in-fill development and encourage sprawl development, with significant impacts on the environment and the loss of natural heritage features and agricultural lands.

The proposed PPS 2024 would remove the mandatory requirement that planning authorities must establish minimum targets for intensification, redevelopment, and density. More specifically, these targets would all become optional under policies 2.3.1.4 and 2.3.1.5 of the PPS 2024 given the shift in language from “shall establish” to “are encouraged to establish.”

Mandatory minimum targets ensure planning authorities minimize sprawl development and encourage appropriate density and land use.

Policy 2.3.1.5 of the proposed PPS 2024 also greatly reduces the density targets contained in the Growth Plan. Section 2.2.4.2 of the Growth Plan currently establishes the following minimum density targets:

- a) 400 residents and jobs combined per hectare for each of the urban growth centres in the City of Toronto;
- b) 200 residents and jobs combined per hectare for each of the Downtown Brampton, Downtown Burlington, Downtown Hamilton, Downtown Milton, Markham Centre, Downtown Mississauga, Newmarket Centre, Midtown Oakville, Downtown Oshawa, Downtown Pickering, Richmond Hill Centre/Langstaff Gateway, Vaughan Metropolitan Centre, Downtown Kitchener, and Uptown Waterloo urban growth centres; and
- c) 150 residents and jobs combined per hectare for each of the Downtown Barrie, Downtown Brantford, Downtown Cambridge, Downtown Guelph, Downtown Peterborough and Downtown St. Catharines urban growth centres.

However, the proposed PPS 2024 would repeal these regionally specific minimum density targets. Instead, the new policy 2.3.1.5 encourages planning authorities in large and fast-growing municipalities to plan for a target of only 50 residents and jobs per gross hectare in designated growth areas, a vastly decreased density.

Recommendations:

CELA recommends amending the language in policy 2.3.1.4 of the proposed PPS 2024 to maintain the requirement that planning authorities are required to establish minimum targets for intensification, redevelopment, and density.

CELA recommends removing policy 2.3.1.5 of the proposed PPS 2024. The minimum density targets in the Growth Plan should be maintained.

(b) Removal of a Comprehensive Review for Settlement Area Boundary Expansion

CELA opposes the removal of a comprehensive review in the context of identifying a settlement area or allowing the expansion of an existing settlement area boundary.

The current policy 1.1.3.8 of PPS 2020 requires planning authorities to undertake a comprehensive review before a settlement area may be identified or expanded. In undertaking a comprehensive review, policy 1.1.3.8 of PPS 2020 further provides that “the level of detail of the assessment should correspond with the complexity and scale of the settlement boundary expansion or development proposal.” Notably, policy 1.1.3.9 of PPS 2020 lists only four exemptions to the requirement for a comprehensive review, including, for example, where there would be no net increase in land within the settlement area.

Policy 2.3.2.1 of the proposed PPS 2024 seeks to remove the requirement for a comprehensive review. Absent a comprehensive review, planning authorities can expand settlement area boundaries at their own discretion, whether or not it represents good land use planning.

The wording of the proposed policy is also less stringent than the current policy and will allow for increased sprawl development. The new proposed policy only requires that planning authorities “shall consider” certain factors, as opposed to the current requirement that planning authorities “must demonstrate” that:

- a) sufficient opportunities to accommodate growth and to satisfy market demand are not available through intensification, redevelopment and designated growth areas to accommodate the projected needs over the identified planning horizon;
- b) the infrastructure and public service facilities which are planned or available are suitable for the development over the long term, are financially viable over their life cycle, and protect public health and safety and the natural environment;
- c) in prime agricultural areas:
 - 1. the lands do not comprise specialty crop areas;
 - 2. alternative locations have been evaluated, and
 - i. there are no reasonable alternatives which avoid prime agricultural areas; and
 - ii. there are no reasonable alternatives on lower priority agricultural lands in prime agricultural areas;
- d) the new or expanding settlement area is in compliance with the minimum distance separation formulae; and
- e) impacts from new or expanding settlement areas on agricultural operations which are adjacent or close to the settlement area are mitigated to the extent feasible.

In addition, this proposed policy change must be considered along with the proposed amendment to the *Planning Act* in Bill 185, Schedule 12, sections 4(4) and 5(6), which would allow developers to appeal these settlement area boundary expansion decisions to the Ontario Land Tribunal, except if it would alter the boundary to include land in the Greenbelt Area in the area of settlement.

The PPS 2024 should be encouraging in-fill and density development to avoid all of the negative environmental impacts of sprawl development, including worsening the climate crisis.

Recommendation:

CELA recommends amending policy 2.3.2.1 of PPS 2024 to maintain the requirement for a comprehensive review before a settlement area may be identified or expanded.

(c) Housing – Removal of Direction to Establish Development Standards

Policy 2.2.1 of PPS 2024 should be amended to maintain the requirements for development standards in the current PPS 2020.

CELA opposes the removal of policy 1.4.3(f) of PPS 2020, which provides direction to planning authorities to “establish development standards for residential intensification, redevelopment and new residential development which minimize the cost of housing and facilitate compact form, while maintaining appropriate levels of public health and safety.” There is no comparable direction in the proposed PPS 2024.

Recommendation:

CELA recommends amending policy 2.2.1 of the proposed PPS 2024 to reincorporate the existing direction in policy 1.4.3(f) of PPS 2020.

(d) Weakening Protections of Wetlands

The protections afforded to Ontario’s wetlands have been considerably weakened in recent years. The repeal of the Growth Plan will further worsen protections for wetlands.

Wetlands are critically important to protect low-income communities. A recent study found that vulnerable groups including visible minorities, the elderly, lone-parent households, Indigenous peoples, and low-income residents are at a higher risk for flooding in Canada.⁹ The overall flood risk caused by climate change is higher in Indigenous communities than in other communities in Canada.¹⁰ Since Ontario’s wetlands play a critical role in enhancing our resilience to climate

⁹ L. Chakraborty et al. “Leveraging Hazard, Exposure, and Social Vulnerability Data to Assess Flood Risk to Indigenous Communities in Canada” (2021) 12 Int J Disaster Risk Sci 821–838, online: <https://link.springer.com/article/10.1007/s13753-021-00383-1>.

¹⁰ L. Chakraborty et al. “Leveraging Hazard, Exposure, and Social Vulnerability Data to Assess Flood Risk to Indigenous Communities in Canada” (2021) 12 Int J Disaster Risk Sci 821–838, online: <https://link.springer.com/article/10.1007/s13753-021-00383-1>.

change and flood risk (through soil stabilization, water filtration, flood mitigation and carbon storage), it is particularly important to protect wetlands from development.

In contrast to the proposed PPS 2024, the provisions of the Growth Plan applied to all wetlands and not just provincially significant wetlands. The Plan used the term “Key Natural Heritage Feature” to describe significant natural heritage features within the Growth Plan Natural Heritage System. A Key Natural Heritage Feature was defined to include “*habitat of endangered species and threatened species; wetlands; significant woodlands and significant wildlife habitat.*” Subject to certain exceptions, development or site alteration was strictly prohibited within key natural heritage features that were part of the Growth Plan Natural Heritage System or in key hydrologic features. Consequently, the repeal of the Growth Plan has significantly eroded the protection of Ontario’s wetlands in the Greater Golden Horseshoe region by shifting the focus to protection of only those wetlands which are defined as provincially significant.

This proposed policy change must be considered along with the recent amendments to the Ontario Wetland Evaluation System (OWES), which make it much more difficult for wetlands to be defined as provincially significant. These changes removed consideration of wetland complexes, which allowed wetlands in close proximity to be evaluated together to reflect their connectivity and ecological importance. The changes also removed points in the evaluation process even if the wetland provides habitat for endangered and threatened species.

Furthermore, the changes allowed the application of the new criteria to the re-evaluation of wetlands and wetland complexes currently deemed to be provincially significant. The Ministry of Natural Resources and Forestry’s role in overseeing the evaluation and approval of wetland status was also eliminated. According to the Auditor General of Ontario, Conservation Authorities and municipalities have predicted, “that the majority—in some areas, up to 98%—of the protected wetlands in southern Ontario would be at risk of losing protection from development as a result of these changes.”¹¹

The overall effect of these changes is that the protection of vitally important wetlands has been seriously diminished. The PPS 2024 should at the very least maintain the broader protection for wetlands provided by the Growth Plan.

Recommendation:

CELA recommends amending policy 2.1 of PPS 2024 to provide for the current protection for all wetlands in the Growth Plan.

(e) Protections for Water Quality and Quantity

Policy 4.2.1 of the proposed PPS 2024 is comparable to the current policy 2.2.1 in PPS 2020. Both of these policies require planning authorities to protect, improve, or restore the quality and quantity

¹¹ Auditor General of Ontario, “Operation of the Environmental Bill of Rights 1993” (December 2023) at 16, online: <https://www.auditor.on.ca/en/content/annualreports/arreports/en23/AR_EBR_en23.pdf>.

of water. However, policy 4.2.1 of the proposed PPS 2024 removes some of the existing water protections contained in policy 2.2.1 of PPS 2020, including the removal of:

- (c) evaluating and preparing for the impacts of a changing climate to water resource systems at the watershed level;
- (i) ensuring stormwater management practices minimize stormwater volumes and contaminant loads, and maintain or increase the extent of vegetative and pervious surfaces.

CELA recommends maintaining explicit consideration of a changing climate to water resource systems at a watershed level, ensuring stormwater management practices minimize stormwater volumes and contaminant loads, and maintain or increase the extent of vegetative and pervious surfaces.

Recommendation:

CELA recommends amending policy 4.2.1 of PPS 2024 to maintain the requirements in the current policy 2.2.1 of PPS 2020.

(f) Removal of Policy-Specific Consideration of the Impacts of a Changing Climate

CELA opposes the proposal to remove many of the PPS 2020's policies that promote consideration of the environment and a changing climate in specific policies. The following policies from PPS 2020 are not included in the proposed PPS 2024:

Land Use Patterns

Policy 1.1.3.2(c): Land use patterns within settlement areas shall be based on densities and a mix of land uses which ... minimize negative impacts to air quality and **climate change**, and promote energy efficiency;

Policy 1.1.3.2(d): Land use patterns within settlement areas shall be based on densities and a mix of land uses which ... **prepare for the impacts of a changing climate**;

Infrastructure and Public Service Facilities

Policy 1.6.1: Infrastructure and public service facilities shall be provided in an efficient manner that **prepares for the impacts of a changing climate** while accommodating projected needs.

Sewage and Water Services

Policy 1.6.6.1(b)(2): Planning for sewage and water services shall ... ensure that these systems are provided in a manner that ... **prepares for the impacts of a changing climate**;

Stormwater Management

Policy 1.6.6.7(c): Planning for stormwater management shall ... minimize erosion and changes in water balance, **and prepare for the impacts of a changing climate** through the effective management of stormwater, including the use of green infrastructure; and

Water

Policy 2.2.1(c): Planning authorities shall protect, improve or restore the quality and quantity of water by ... **evaluating and preparing for the impacts of a changing climate** to water resource systems at the watershed level.

PPS 2024 instead proposes to provide consideration for a changing climate in policy 2.9.1. The policy language is less directive and specific. It provides that planning authorities shall plan to reduce greenhouse gas emissions and prepare for the impacts of a changing climate through “approaches” that:

- a) support the achievement of compact, transit-supportive, and complete communities;
- b) incorporate climate change considerations in planning for and the development of infrastructure, including stormwater management systems, and public service facilities;**
- c) support energy conservation and efficiency;**
- d) promote green infrastructure, low impact development, and active transportation, protect the environment and improve air quality; and
- e) take into consideration any additional approaches that help reduce greenhouse gas emissions and build community resilience to the impacts of a changing climate.

In the midst of a climate crisis, CELA supports maintaining the stronger, more directive language to consider a changing climate in decisions on land use patterns, infrastructure and public service facilities, sewage and water services, stormwater management and water quantity and quality, as found in PPS 2020. All planning decisions must be made in consideration of our changing climate.

Recommendation:

CELA recommends the proposed PPS 2024 be amended to ensure that all aspects of land use planning adequately account for the impacts of a changing climate.

(g) PPS 2024 Should Include a Policy to Minimize Vehicle Trips

PPS 2020 required consideration of minimizing vehicle trips in policy 1.6.7.4. The policy promoted a land use pattern, density and mix of uses to minimize the length and number of vehicle trips and to support current and future use of transit and active transportation. This provision would minimize greenhouse gas emissions from transportation and promote healthy communities. PPS 2024 does not include a similar provision relating to minimizing vehicle trips.

Recommendation:

CELA recommends that policy 1.6.7.4 of PPS 2020 be included in PPS 2024.

2. CELA SUPPORTS THE FOLLOWING AMENDMENTS TO THE PPS, 2024

(a) Promotion of Developing Under-Utilized Commercial and Institutional Sites

Policy 2.2.1(b) of the proposed PPS 2024 promotes all types of residential intensification, which now includes the development and redevelopment of under-utilized commercial and institutional sites (e.g., shopping malls and plazas) for residential use. In-fill development better protects existing natural heritage and agricultural lands and discourages sprawl development.

Recommendation:

CELA supports the utilization of existing building stock for residential uses.

(b) Planning for Sewage and Water Services

The proposed PPS 2024 seeks to add in policy 3.6.1(b)(4) and (f), which provides that planning for sewage and water services shall:

(b) ensure that these services are provided in a manner that:

4. aligns with comprehensive municipal planning for these services, where applicable.

(f) integrate with source protection planning.

Source protection planning is critical to protect drinking water. We support language to promote municipal consideration of source protection plans in planning for sewage and water services.

Recommendation:

CELA supports policy 3.6.1(b)(4) and (f), which provides that municipalities consider source protection planning for water and sewage services.

D. Conclusion

The Growth Plan included mandatory policies to protect the populous Greater Golden Horseshoe area from the environmental impacts of sprawl development. The proposed PPS 2024 does not adequately protect valuable natural heritage features or agricultural lands. CELA recommends maintaining the Growth Plan protections, including mandatory density targets and comprehensive review processes when considering any expansion of settlement boundaries.

PPS 2024 would also not adequately protect valuable wetlands because it only applies to provincially significant wetlands and few wetlands will meet that threshold because of the previous weakening of the Ontario Wetland Evaluation System.

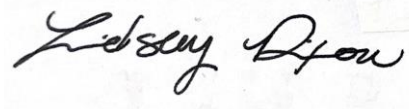
CELA is therefore recommending that PPS 2024 not be adopted. Further consideration is needed to ensure that our land use planning system protects our environment and communities.

Yours truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION



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