
SUBJECT: City of Markham Comments on the Provincial Policy Statement Review

PREPARED BY: Lilli Duoba, RPP, MCIP, Manager, Natural Heritage, Ext. 7925

REVIEWED BY: Marg Wouters, RPP, MCIP, Senior Manager, Policy and Research, Ext. 2909

RECOMMENDATION:

1. That the staff report entitled “City of Markham Comments on the Provincial Policy Statement Review, dated October 15, 2019, be received; and,
2. That this staff report and recommendations be forwarded to the Ministry of Municipal Affairs and Housing and York Region as the City of Markham’s comments on the proposed changes to the Provincial Policy Statement as part of the Provincial Policy Review; and,
3. That the Ministry of Municipal Affairs and Housing be advised of the following specific recommendations:
 - i) That current Provincial Policy Statement 2014 policy 4.9 which identifies that the PPS policies represent minimum standards, remain as policy in the Interpretation and Implementation section under Part V: Policies;
 - ii) That the references to ‘market-based’ and ‘market demand’ in proposed policies 1.1.1, 1.1.3.8, 1.4.3 and 1.7 be deleted, or alternately that a reference to both market-based and non market-based be included to ensure planning authorities continue to plan for an inclusive, broad and responsive approach to addressing housing needs, which would include but not prioritize market-based approaches to housing;
 - iii) That the employment polices be revised as follows:
 - a) That the proposed additional references to ‘mixed uses’ and ‘consideration of housing policy’ be deleted from proposed policy 1.3.1;
 - b) That the prohibition of residential and institutional uses in proposed policy 1.3.2.3 apply to all employment areas, rather than only to those planned for industrial and manufacturing uses; and,
 - c) That the reference in proposed policy 1.3.2.3 to include appropriate transition within employment areas be revised to provide for appropriate transition between employment areas and non-employment areas, to be consistent with the Growth Plan;
 - iv) That the Province provide guidance and clarification for municipalities with respect to the required method and level of engagement with Indigenous communities;

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- v) That the Province provide municipalities with an opportunity to review any future modifications to 'Hazard Lands' policies resulting from the ongoing current review prior to incorporation in the Provincial Policy Statement;
 - vi) That proposed policy 4.7 regarding streamlining of development approvals be removed, and instead the Province be advised that the intent of proposed policy 4.7 regarding streamlining development approvals would be more appropriately directed to the review and update of regulations, guidelines, standards and internal and external staffing levels to achieve the outcome of fast tracking applications;
 - vii) That if proposed policy 4.7 regarding streamlining of development approvals remains, the Province provide criteria and guidance on identification of 'priority' applications for consideration of fast tracking;
 - viii) That the Province review the process for approval of private communal water and wastewater services to require that private operators establish fiscally responsible life cycle and financial reserve practices, to ensure that these systems are designed to meet municipal design standards and to allow municipalities to recover all costs of taking over these services in the event of a default;
 - ix) That the Province consider stronger policy wording in building strong healthy communities that requires land use planning to seek solutions to minimize and/or reduce climate change impacts; and,
4. Further that staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

The Province is proposing a number of changes to the Provincial Policy Statement (PPS) that are intended to increase the supply and mix of housing, protect the environment and public safety, reduce barriers and costs, support northern, rural and indigenous communities and support economic growth. The link to the proposed PPS is found in Appendix 'A'. The proposed PPS is also intended to align with the Growth Plan for the Greater Golden Horseshoe, 2019 which was approved earlier this year and recent changes to the Planning Act and other legislation through Bill 108.

The PPS is an important tool for local planning as the document identifies matters of provincial interest as set out in the *Planning Act*, provides the framework for local and regional planning and sets a high standard of implementation (municipal Official Plans 'shall be consistent with' the policies of the PPS).

Although the PPS remains for the most part unchanged, the Province has proposed new policies, deleted policies and provided wording changes which affect the direction to municipalities in certain areas. Staff comments contained in this report and Appendix 'B' are related to:

- Concern with a proposed new focus on only market-based housing;

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- Non-support for certain policies which appear to reduce protections for employment area lands;
 - Issues of clarity in the policy wording and potential challenges with interpretation and implementation of the intent of the policies;
 - New ‘undefined’ terminology that should be defined;
 - Policies that have been weakened; and,
 - Removal of key implementation policies and their transfer into non-Policy sections of the document.

It is recommended that the City of Markham staff report and Council resolution on this matter be forwarded to the Ministry of Municipal Affairs and Housing and York Region.

PURPOSE:

The purpose of this report is to provide an overview of the recently released Proposed Provincial Policy Statement, 2019 and to provide comments to the Province.

BACKGROUND:

The Provincial Policy Statement (PPS) is the foundation policy document providing planning direction to municipalities on matters of provincial interest. The document provides policies for building strong healthy communities, wise use and management of resources and protecting public health and safety. The PPS is issued under Section 3 of the *Planning Act*. All decisions on planning matters made by municipalities and the Local Planning Authority Tribunal (LPAT) ‘shall be consistent with’ the PPS.

The Province released ‘Provincial Policy Statement Review – Proposed Policies’ on July 22, 2019 for a 90 day consultation period in ERO posting #019-0279. The consultation closes on October 21, 2019. The link to the proposed PPS is identified on Appendix ‘A’.

The Ministry has identified the intent of the proposed changes as follows:

Increasing Housing Supply and Mix

- Increase land supply requirements municipalities must meet:
 - Increase planning horizon from 20 to 25 years
 - Increase housing land supply from 10 to 12 years
 - Allow higher minimum requirement for serviced residential land (5 years) for upper- and single-tier municipalities
- Update provincial guidance to support land budgeting (i.e. Projection Methodology)
- Increase flexibility for municipalities related to the phasing of development and compact form
- Add flexibility to the process for settlement area boundary expansions (e.g. allow minor adjustments subject to specific tests, highlight that study requirements should be proportionate to the size/scale of development)
- Require transit-supportive development and prioritize intensification, including potential air rights development, in proximity to transit, including corridors and stations

- Support the development of housing to meet current and future housing needs, and add reference to housing options
- Support municipalities in achieving affordable housing targets by requiring alignment with Housing and Homelessness Plans
- Broaden PPS policies to enhance support for development of long-term care homes

Protecting the Environment and Public Safety

- Enhance direction to prepare for impacts of a changing climate
- Enhance stormwater management policies to protect water and support climate resiliency
- Promote the on-site local reuse of excess soil
- Maintain current policies related to natural and human made hazards which directs development away from hazardous areas including flood-prone areas in order to protect public health and safety, while work by the Special Advisor on Flooding is underway
- Maintain current policies that require municipalities in southern Ontario to identify natural heritage systems, and provide flexibility as to how to achieve this outcome
- Maintain protections for the Greenbelt

Reducing Barriers and Costs

- Require municipalities to take action to fast-track development applications for certain proposals (e.g. housing)
- Allow mineral aggregate operations to use rehabilitation plans to demonstrate that extraction will have no negative impacts
- Align policies and definition of cultural heritage with recent changes to the *Ontario Heritage Act*
- Refocus PPS energy policies to support a broad range of energy types and opportunities for increased energy supply
- Direct large ground-mounted solar facilities away from prime agricultural and specialty crop areas
- Make minor changes to streamline development approvals and support burden reduction

Supporting Rural, Northern and Indigenous Communities

- Allow flexibility for communities by clarifying perceived barriers to sewage and water servicing policies for lot creation and development in rural settlement areas
- Enhance municipal engagement with Indigenous communities on land use planning to help inform decision-making, build relationships and address issues upfront in the approvals process
- Enhance agricultural protections to support critical food production and the agricultural sector as a significant economic driver

Supporting Certainty and Economic Growth

- Encourage municipalities to facilitate conditions for economic investment, and at the time of official plan review or update, assess locally-identified employment areas to ensure designations are appropriate
- Provide municipalities with greater control over employment area conversions to support the forms of development and job creation that suit the local context (current and future)
- Provide stronger protection for major facilities such as manufacturing and industrial uses where non-employment uses are planned nearby (i.e. buffering uses from new sensitive uses).

PPS vs. Growth Plan. Which prevails?

The proposed changes to the PPS aim to align with the Growth Plan 2019 (now in effect) as well as with recent changes to the Planning Act and other legislation through Bill 108.

Where both the PPS and Growth Plan contain similar policies, planning authorities subject to the Growth Plan, such as Markham, would take direction from the Growth Plan. Planning authorities must ‘conform with’ the Growth Plan and ‘be consistent with’ the PPS. The more rigid test is the Growth Plan.

The Growth Plan and PPS both include language that permit planning authorities to go beyond minimum standards. Current policy 4.9 states that the PPS represents minimum standards and that nothing prevents planning authorities and decision makers from going beyond the minimum standards established in specific policies, unless in doing so would conflict with any policy of the PPS. Whereas the PPS includes language that states decision makers ‘may’ go beyond minimum standards, the Growth Plan contains more robust language and ‘encourages’ decision makers to go beyond the standards. This authority can and should be used to address the permissive matters (i.e., ‘may’) in both the Growth Plan and PPS where the City may wish to apply enhanced planning and development standards consistent with municipal policies and procedures.

DISCUSSION:

Staff have undertaken a detailed review, consulted with York Region and have organized comments specific to the proposed policies. The larger issues pertaining the proposed PPS policies are identified below. Additional minor or technical comments are listed in Appendix ‘B’ for consideration by the Province.

Significant policies moved from Part V: Policies to other non-Policy sections

The proposed PPS has moved policies currently numbered and identified in Part V: Policies to other sections of the document. It is not clear if the intent of these changes is to lessen the weight of the policies. Of specific concern is current policy 4.9 which allows planning authorities and decision-makers to go beyond the minimum PPS standards. This direction remains but has been moved to Part III: How to Read the Provincial Policy Statement. Since the PPS is a general statement of policy applicable to the entire Province, it is critical that the PPS is very clear that standards beyond the minimum may be applied by planning authorities to address specific community interests and priorities. Staff are concerned that the change in status of this direction from policy to non-policy weakens the direction. Staff recommend that the current policy 4.9 be

maintained in the Implementation and Interpretation section to ensure the policy may be clearly applied if necessary in the defence of local policies exceeding minimum PPS standards.

Recommendation i)

That current Provincial Policy Statement 2014 policy 4.9 which identifies that the PPS policies represent minimum standards, remain as policy in the Interpretation and Implementation section under Part V: Policies.

The proposed references to ‘market-based’ and ‘market demand’ in a number of policies does not strike the right balance, particularly for providing for a range of housing options and affordability and building compact communities

A major change in the proposed PPS is the introduction of the principle of planning communities based on market demand. This principle is included in proposed policy 1.1.1 which speaks to healthy communities being sustained by accommodating market based range and mix of residential types; policy 1.1.3.8 which provides for settlement area boundary expansions to satisfy market demand; policy 1.4.3 requiring municipalities to provide for a range and mix of housing to meet projected market-based needs of current and future residents; and policy 1.7 which states that long term economic prosperity should be supported by encouraging residential uses to respond to dynamic market-based needs.

Market-based is not a defined term, however the proposed policies suggest that private sector interests will have more discretion to develop certain housing types or built form over others based on consumer preferences alone, thus limiting the City’s ability to influence and provide for a full range of housing types to meet the future needs of the entire community. The emphasis on market-based housing focuses on short term preferences and could lead to a return to planning for more land-consumptive, auto-oriented, lower density housing types, rather than planning for compact communities through intensification and higher density housing types with access to transit consistent with the Growth Plan. A focus on lower density housing types would also affect the delivery of affordable housing, which is typically provided in a higher density housing form.

Although it is recognized that the majority of housing is provided by the private development industry, and that market preferences need to be taken into account to some degree, it is staff’s opinion that the introduction of the market-based references directly conflict with the intent of the PPS to promote efficient development that optimizes the use of land, resources and public investment in infrastructure and public service facilities. Staff recommend that the references to ‘market-based’ and ‘market demand’ be deleted or that the reference be changed to include both ‘market-based’ and ‘non market based’ needs.

Recommendation ii)

That the references to ‘market-based’ and ‘market demand’ be deleted in policies 1.1.1, 1.1.3.8, 1.4.3 and 1.7, or alternately that a reference to both market-based and non market-based be included to ensure planning authorities continue to plan for an inclusive,

broad and responsive approach to addressing housing needs, which would include but not prioritize market-based approaches to housing.

Concern that proposed changes to employment policies may result in unintended further weakening of employment areas protection

Proposed policy 1.3.2.5 in the PPS generally aligns with new Growth Plan policy 2.2.5.10 which permits municipalities to convert certain employment area lands to non-employment uses prior to a municipal comprehensive review, subject to conditions. The Growth Plan policy was not supported by Markham Council, as it weakens the protection of employment areas.

Proposed policy 1.3.1.a) includes an added reference to providing for ‘mixed’ as well as employment and institutional uses under the general policy of promoting economic development and competitiveness. Staff recommend deletion of the added reference to ‘mixed uses’ as it is not a use category, and the policy already speaks to municipalities providing for an appropriate ‘mix and range’ of employment and institutional uses.

Staff also do not support the addition of ‘...with consideration of housing policy 1.4’ in proposed policy 1.3.1 d), as it is not clear why only housing policies are referenced to support liveable and resilient communities. In addition, the term ‘mixed use’ development could describe a mix of non-residential uses and does not always require a residential built form.

Staff support the inclusion of proposed policy 1.3.2.3 that prohibits residential and institutional uses that are not ancillary to the primary employment use in employment areas, however do not support restricting this policy to only employment areas planned for industrial and manufacturing uses. As Markham’s employment areas evolve, they will contain businesses other than industrial or manufacturing that may still require protection.

The second sentence of proposed policy 1.3.2.3 states that employment areas planned for industrial and manufacturing uses should include an appropriate transition to adjacent non-employment areas. The Growth Plan has a similar policy (2.2.5.7.c) but it states that there should be appropriate transition between employment areas and adjacent non-employment areas. Staff prefer the Growth Plan wording as the proposed PPS wording could lead to contested opinions of what appropriate ‘transition’ uses should be permitted in employment areas. Staff also recommend this part of the policy also not be restricted to employment areas planned for industrial and manufacturing uses only.

Recommendation iii)

That the employment policies be revised as follows:

- a) That the proposed additional references to ‘mixed uses’ and ‘consideration of housing policy’ be deleted from policy 1.3.1;
- b) That the prohibition of residential and institutional uses in proposed policy 1.3.2.3 apply to all employment areas, rather than only to those planned for industrial and manufacturing uses; and,

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- c) That the reference in proposed policy 1.3.2.3 to include appropriate transition within employment areas be revised to provide for appropriate transition between employment areas and non-employment areas consistent with the Growth Plan.

Expectations increased for engagement with Indigenous communities

The proposed PPS directs cooperative relationships and meaningful engagement with Indigenous communities, and now requires (rather than encourages) engagement with Indigenous communities on land use planning matters (policy 1.2.2) and when identifying, protecting and managing cultural heritage and archaeological resources (policy 2.6.5). The City currently engages with Indigenous communities on City-wide planning initiatives such as the Official Plan as well as matters related to archaeological resources. However, staff require further guidance on what ‘engagement’ entails and particularly what the expectation is for engagement in ‘identifying, protecting and managing cultural heritage and archaeological resources’. This could be interpreted to mean that engagement is required when protecting heritage buildings and other settlement resources unrelated to Indigenous attributes. The Association of Municipalities of Ontario (AMO) recently published ‘Municipal Governments and Crown’s ‘Duty to Consult’: Towards a Process that Works for Local Communities’ April 2019, which outlined the challenges and uncertainty facing municipalities in assuming greater consultation responsibilities. AMO recommended that the Province provide clear protocols, ongoing facilitation support, appropriate training and guidance, information-sharing and adequate financial resources to ensure any delegated Duty to Consult is implemented properly and respectfully. Staff support the efforts of AMO and encourage further guidance from the Province in this area.

Recommendation iv)

That the Province provide guidance and clarification for municipalities with respect to the required methods and level of engagement with Indigenous communities.

Hazard Policies (Under Further Review)

The hazard policies in the proposed PPS are unchanged and identified as being subject to an ongoing review by the Province’s Special Advisor on Flooding. At the time of the authoring of this report, the Province had not released any additional information in the Hazard Policy review. ‘Hazard Lands’ policies apply in Markham and staff recommend that Markham be afforded the opportunity to review and comment on any proposed policy changes prior to incorporation into the amended PPS.

Recommendation v)

That the Province provide municipalities with an opportunity to review any future modifications to ‘Hazard Lands’ policies resulting from the ongoing current review prior to incorporation in the Provincial Policy Statement.

Streamlined Planning Processes require an integrated effort

Proposed policy 4.7 directs planning authorities to take action to support increased housing supply and facilitate timely and streamlined processes for local development by:

- identifying and fast tracking priority applications which support housing and job-related growth and development; and,

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- reducing the time needed to process residential and priority applications to the extent practical.

Markham has been and continues to be a high growth municipality. In order to manage the workload associated with the significant number of planning applications and the constant change in regulatory requirements and design standards, Markham regularly reviews its processes to identify streamlining improvements, including a comprehensive process review which is currently underway. Markham must work within the statutory timelines set out in the *Planning Act* and its regulations, work with development proponents to ensure complete applications are submitted, work with external agencies to submit comments and resolve issues in a timely manner and ensure development is appropriate. There are many reasons for the review of development applications to take longer than expected including factors that are outside of the control of municipalities.

A broad provincial policy requiring streamlining of the development approvals process cannot be addressed or met by municipalities without, at minimum an integrated set of guidelines and regulations which also include requirements for Provincial Ministries and other external review agencies to provide development application review comments within pre-determined timelines that are coordinated with local municipal review timeline requirements. Other streamlining options could include changes to approval processes in the *Planning Act* related to notices, delegated authority for decision making and appeals. The development community also has a large role to play in addressing approval timelines, including the delivery of high quality and complete applications, meeting community needs and expectations, and addressing City and agency requirements in a timely manner.

Of particular concern is the requirement in proposed policy 4.7 for planning authorities to identify and fast track ‘priority’ applications. Priority is an undefined term and there is no direction in the PPS of what a ‘priority’ application might be, particularly with respect to the proposed focus on ‘market-based’ housing. Markham prides itself in providing a consistent level of service to all developers and ensuring only exceptional development projects identified by Council (such as affordable housing and high level sustainability buildings) are fast tracked. The PPS is not the instrument to provide for application streamlining. Regulations, guidelines and standards are better tools to address the streamlining of development application approvals.

Recommendation vi)

That proposed policy 4.7 regarding streamlining of development approvals be removed, and the Province be advised that the intent of proposed policy 4.7 would be more appropriately directed to the review and update of regulations, guidelines, standards and internal and external staffing levels to achieve the outcome of fast tracking applications.

Recommendation vii)

That if proposed policy 4.7 regarding streamlining of development approvals remains, the Province provide criteria and guidance on identification of ‘priority’ applications for consideration of fast tracking.

Water and Wastewater Servicing

The proposed PPS provides revised direction for water and wastewater servicing with respect to private communal services. Proposed policies identify that private communal services are a preferred option where municipal services are not available, planned or feasible. Previously, the policies gave more deference to municipalities to approve the use of private communal services.

The City's Official Plan requires the use of full municipal services for all development except in the rural area and lands designated 'Residential Estate'. While the likelihood of private communal services is low, any use of private communal servicing systems present increased financial risk to the City. Where private communal services are used, the Ministry of the Environment, Conservation and Parks has required that the municipality enter into "Responsibility Agreements" with the private owners to take over the communal services in the event that the private operator defaults on their responsibilities. To mitigate this risk, it is recommended that the Province ensure that private operators follow municipal life cycle and financial reserve practices and provide municipalities with oversight powers. The design of private communal systems should be reviewed and approved by the municipality to ensure that municipal design standards are met. Finally, in the event of a default, municipalities should be allowed to recover all costs associated with the transfer of responsibility.

Recommendation viii)

That the Province review the process for approval of private communal water and wastewater services to require that private operators establish fiscally responsible life cycle and financial reserve practices, to ensure that these systems are designed to meet municipal design standards and to allow municipalities to recover all costs of taking over these services in the event of a default.

Climate Change

The proposed PPS has modified policy 1.1.1 h) which directs 'preparing for the regional and local impacts of a changing climate' rather than the previous wording 'consider the impacts of a changing climate'. This language is also found in other policies. Although staff feel this is a stronger wording, the policy falls short in providing direction to 'reduce' or 'mitigate' climate change impacts in land use planning and direct preventative measures. Staff feel greater efforts should be made to reduce climate change impacts rather than just prepare for them.

Recommendation ix)

That the Province consider stronger policy wording in building strong healthy communities that requires land use planning to seek solutions to minimize and/or reduce climate change impacts.

Additional Technical Comments

Additional technical comments on the Proposed PPS are identified in Appendix 'B'.

NEXT STEPS:

Staff recommend that this report and recommendations be forwarded to the Ministry of Municipal Affairs and Housing and York Region as Markham's comments on the proposed changes to the Provincial Policy Statement. Staff will report back to Council once the final Provincial Policy Statement is released. Staff will also report back on any proposed changes to the PPS 'Hazard Lands' policies which are currently under a separate review.

FINANCIAL CONSIDERATIONS:

Not applicable.

HUMAN RESOURCES CONSIDERATIONS:

Not applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

The Provincial Policy Statement provides the framework for land use planning in Ontario and supports the City's growth management and environmental protection priorities forming part of the 'Engaged, Diverse and Thriving City' and 'Safe and Sustainable Community'.

BUSINESS UNITS CONSULTED AND AFFECTED:

Comments from Policy and Research, Planning and Urban Design, Engineering, Environmental Services, Economic Growth, Culture and Entrepreneurship and Legal Services were included in this report.

RECOMMENDED BY:

Arvin Prasad, RPP, MCIP
Commissioner, Development Services

ATTACHMENTS:

Appendix 'A': Link to Proposed Provincial Policy Statement, 2019:
https://prod-environmental-registry.s3.amazonaws.com/2019-07/EN_PPS%20Proposed%20Policies_July2019.pdf

Appendix 'B': Additional Technical and Wording Comments

File Path: [https://markham.escribemeetings.com/Reports/Information Report Proposed Changes to the Provincial Policy Statement, 2019.docx](https://markham.escribemeetings.com/Reports/Information%20Report%20Proposed%20Changes%20to%20the%20Provincial%20Policy%20Statement%202019.docx)

Appendix B

Additional Technical and Wording Comments

1. Planning Time Horizon Extended

The proposed PPS has increased the time horizon for providing sufficient land for mix of uses from 20 years to 25 years informed by provincial guidelines. The PPS also allows for the planning of employment areas, infrastructure and public service facilities beyond the planning horizon. For Markham, the planning horizon is established in the Growth Plan which currently identifies an alternative planning horizon of 2041 (22 years). Staff support the modified time horizons. Providing longer flexible planning horizons timelines for infrastructure, public service facilities and employment lands is a benefit for municipalities in planning for the long term needs of the community.

2. Consistency in terminology

The Growth Plan and PPS should strive towards similar terminology and definitions in order to assist with interpretation and implementation. References to ‘second units’ were changed to ‘additional residential units’ presumably to be consistent with allowing for two additional units in housing modifications. The *Planning Act* uses ‘additional unit’ – Section 16(3) and the Growth Plan uses ‘second units’ – Policies 2.2.1.4 c), 2.2.4.9 a) and 2.2.6.1 a) i). The Province may wish to consider defining the term ‘additional residential units’ to understand its relationship to second units in other legislation and statutory plans. It is noted that Policy 1.1.1 refers to ‘multi-unit housing’ while the housing options definition identifies ‘multi-residential buildings’. The PPS should use consistent terminology. ‘Multi-unit residential buildings’ would be the preferred term.

3. Include ‘Social’ impacts

Policy 1.1.1 c) should also reflect ‘social’ in existing statement to read ‘avoiding development and land use pattern which may cause *social*, environment or public health and safety concerns.’ The statement currently does not cover social risks causing harm to public safety.

4. Include ‘Active’ Transportation

Policy 1.1.1 e) which promotes the integration of land use planning, growth management and transit-supportive development does not address active transportation. Active transportation is an important component of health, livable and safe communities contributing to transportation management and healthy living and should form part of the statement in building strong healthy communities.

5. Support linking development intensification and infrastructure

Policy 1.1.1.e) and other references now include policy language linking transit-supportive development and intensification and infrastructure to land use planning and growth management. Staff support these wording changes.

6. PPS wording weaker for AODA

Staff support the current PPS 2014 wording with respect to persons with disabilities in policy 1.1.1 f). The current PPS speaks to ‘identifying, preventing and removing land use barriers’ while the proposed PPS speaks to ‘addressing land use barriers’. The word ‘address’ can be interpreted as ‘after the fact’ solution rather than proactive prevention. The Province may wish to review the wording in the Provincial *Accessibility for Ontario’s with Disabilities Act* (AODA) to ensure the PPS policy language is compatible with the AODA.

7. Wording is weaker on compact uses and densities for new development and phasing

Policies 1.1.3.6 and 1.6.7.2 require that new development *should* (currently “shall”) have a compact form, mix of uses and densities that allow for the efficient use of land, infrastructure and public use facilities. The efficient use of land and maximization of public investment in infrastructure and services continues to be critical to the development of environmentally sustainable communities in a financially prudent manner. The current wording in the PPS is preferred. Staff also prefer the current wording in policy 1.1.3.7 which states ‘planning authorities shall establish and implement phasing policies’ rather than the proposed wording ‘planning authorities should establish and implement phasing policies’.

8. Settlement area expansions permitted outside a Comprehensive Review

Proposed policy 1.1.3.9 allows for adjustments to the urban settlement boundary outside of a comprehensive review. This policy generally aligns with Growth Plan 2019 policy 2.2.8.4. Markham Council recommended that urban expansions outside an MCR should only be permitted where such expansions are initiated by a local municipality and provide a compelling public benefit to the community.

9. Weaker policy approach in land use compatibility

Proposed policy changes to 1.2.6 appear to shift planning for *major facilities* and *sensitive land uses* away from preventing *adverse effects* and rather to avoiding them. A possible implication is that protections for both uses may be weakened leading to an increase in land use conflicts as prevention is a stronger and more proactive approach. Staff are particularly concerned with the implications of proposed Policy 1.2.6.2, which outlines conditions for developing sensitive land uses adjacent to existing or planned industrial, manufacturing or other uses that are particularly vulnerable to encroachment. The concern is that the conditions in clauses a) and b) are not sufficient to protect industrial and manufacturing uses from encroachment of sensitive uses, specifically over time. The proposed policy should be deleted, or additional items including criteria to assess vulnerability to encroachment should be added to ensure the long-term viability of industrial and manufacturing uses.

10. Official Plan Review and Comprehensive Review terms used

Policy 1.3.2.2 and 1.3.2.5 refers to an ‘official plan review or update’ whereas policy 1.3.2.4 refers to a ‘comprehensive review’ (which includes an official plan

review). The Province should clarify what the distinction is between the two terms. It is noted that the definition of ‘comprehensive review’ incorrectly references policy 1.3.2.2 instead of 1.3.2.4.

11. Reference to Air Rights Development near Transit Stations

Staff support the intent of proposed policy 1.4.3 e) in requiring transit-supportive development and prioritizing intensification in proximity to transit corridors and stations, but feel the inclusion of a specific reference to ‘air rights development’ is a level of detail that is out of place in the PPS. Air rights development should be at the discretion of municipalities taking local context into account.

12. Add ‘Planned’

Policy 1.6.6.1.a) could be improved by adding “planned” for consistency with subsequent servicing policies: “private communal sewage services and private communal water services, where municipal sewage services and municipal water services are not available, ‘planned’ or feasible.”

13. Wording improvement to policy 1.6.6.1b)

Policy 1.6.6.1.b) could be improved by adding ‘and complies with all regulatory requirements over their lifecycle’ to the end to read ‘ensure that these systems are provided in a manner that: [...] is feasible, financially viable and complies with all regulatory requirements over their lifecycle’.

14. Wording improvement to policy 1.6.7.1l)

Policy 1.7.1.1) could be improved by adding the words ‘reliable, high speed, abundant and accessible’ after ‘efficient’ to read ‘encouraging efficient reliable, high speed, abundant and accessible coordinated communications and telecommunications infrastructure’.

15. Definitions related to cultural heritage/archaeological matters.

The change to the definition of ‘**Significant**’ in regard to cultural heritage and archaeology means that criteria for determining the significance of the resource will now only include criteria established by the Province and municipal approaches that achieve or exceed the same objective may no longer be used (such as Markham’s Heritage Evaluation System).

The definition of ‘**Areas of Archaeological Potential**’ will now limit the criteria to be used to determine ‘archaeological potential’ to only those established by the Province and not municipal approaches which achieve the same objectives. York Region has spent considerable time and resources to undertake a study to determine all areas of archaeological potential for the entire region which Markham utilizes to determine whether an archaeological assessment will be required. There is a concern that this new definition will not allow our current practices to continue.

The changes to the definitions of ‘**Built Heritage Resource**’ and ‘**Heritage Attributes**’ provides better guidance and clarity. The changes to the definition of

‘**Conserved**’ will now require that any recommendations to be implemented from a conservation plan, archaeological assessment and/or heritage impact assessment have to be approved or adopted by the planning authority or decision-maker. The changes to the definition of ‘**Cultural Heritage Landscapes**’ removes all the examples of what a CHL could be which is unfortunate as this did provide some clarity.

16. Lot Creation for Protection of Cultural Heritage Resources

In order to protect and preserve abandoned cultural heritage resources in prime agricultural areas, section 2.3.4.1 should be amended to allow lot creation for an existing cultural heritage resource provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services, and that the property be designated pursuant to the Ontario Heritage Act and subject to a Heritage Conservation Easement with the local municipality to ensure the cultural heritage resource is protected. The PPS currently only allows lot creation in prime agricultural areas (all of Markham) where a residence is surplus to a farming operation as a result of farm consolidation. Allowing more flexibility in lot creation will support the retention of heritage buildings on agricultural lands.