

# PLANNING REFORM - BILL 97 & NEW PROVINCIAL PLANNING STATEMENT



May 9, 2023

# Ontario's Plan to Build 1.5 Million Homes



- On April 6, the provincial government released its most recent proposals in support of the 'Housing Supply Action Plan'
  - Bill 97, the Helping Homebuyers, Protecting Tenants Act
  - Proposed New Provincial Planning Statement

# Bill 97 and the Planning Act



- Bill 97 proposes amendments to the Building Code Act, City of Toronto Act, Development Charges Act, Ministry of Municipal Affairs and Housing Act, Municipal Act, Planning Act, and Residential Tenancies Act
- Many changes relate to non-land use planning protections for tenants and homebuyers
- The proposed changes to the Planning Act build on or clarify previous changes through Bill 97, Bill 109 and Bill 23

# Bill 97 and the Planning Act



- Postpone until July 1, 2023 the Bill 109 date for planning fee refunds
- Remove the Bill 23 exemption from site plan control for residential developments of 10 units or less where the property is located within 120m of a shoreline or within 300m of a railway
- The Minister would be given additional authority including that Minister's Zoning Orders (MZOs) would be exempt from complying with provincial policies, the ability to require municipalities and developers to enter into agreements, etc.
- Technical changes related to interim control by-laws, areas of employment, additional residential unit parking requirements, etc.

# Provincial Planning Statement



- The existing 'Provincial Policy Statement' and 'A Place to Grow: Growth Plan for the Greater Golden Horseshoe' provide provincial policy direction on land use planning
- It is proposed to combine the two documents into a new province-wide 'Provincial Planning Statement' (PPS)
- In general, a move to a more permissive planning framework ('should' instead of 'shall') except where the province has identified a special interest and municipalities are expressly prohibited from being more restrictive
- The proposed changes are foundational and if approved would represent a fundamental shift in how municipalities undertake planning

# Provincial Planning Statement



The proposed PPS policies are grouped under five pillars:

1. Generating an appropriate housing supply
2. Make land available for development
3. Provide infrastructure to support development
4. Balance housing with resources
5. Implementation

# 1. Housing Supply

---

- Require municipalities to provide a range and mix of housing options
- Require municipalities to implement intensification policies but no longer identifying those targets for GTA municipalities
- Require municipalities to permit more housing on farms including residential lot creation, ARUs and housing for farm workers
- Relaxation of the servicing hierarchy for new development
- Reference to role of housing service manager
- Definition and references to 'affordable housing' have been removed

## 2. Land Available for Development



- Require municipalities to plan for a minimum 25-year horizon, with no maximum timeframe (as opposed to the current maximum 25-year horizon)
- Provide greater flexibility for municipalities (and developers to apply) to expand settlement area boundaries without a municipal comprehensive review and without as rigorous of criteria such as the demonstrate of need
- Changed 'area of employment' policies to essentially differentiate between what has traditionally been considered 'heavy industry' and 'light industry' and both requiring their protection but allowing for applications to remove
- Where an MZO has been made, the resulting development potential shall be in addition to projected needs established in an official plan



# 3. Infrastructure

---

- Proposed language relaxes the servicing hierarchy, which places full municipal services as the preferred form of servicing for settlement areas, by providing greater flexibility for development on partial or private services
- Require municipalities and school boards to integrate planning for schools and growth, and consider and encourage innovative approaches in the design of schools and associated child care facilities
- Concept of 'Strategic Growth Areas' integrated from A Place to Grow

# 4. Balance Housing with Resources

---



- The natural heritage policies and related definitions remain under consideration by the government and therefore are not included within the draft PPS document
- Introduces the concept of watershed planning which suggests that municipalities will be taking an enhanced role in this area
- Other resource policies are based on existing policies with some changes

# 5. Implementation

---

- The proposed PPS clarifies that the policies represent minimum standards, however there are several areas that specify municipalities shall not exceed the minimum standards (ie. residential lot creation in prime agricultural areas)
- Requires that Planning authorities keep their zoning by-laws up-to-date with their official plans and the PPS
- Clarifies that where a planning authority must decide on a planning matter before their official plan has been updated to be consistent with the PPS, it must make a decision that is consistent with the Policy Statement

# Implications for Middlesex County



- If approved the new PPS is a significant change in land use planning policy for Ontario and would necessitate updates to all official plans and zoning by-laws
- The proposed changes are extensive however there a few changes that would appear to have the most potential for impact within Middlesex County
  1. Additional Residential Units
  2. Lot Creation in Agricultural Areas
  3. Settlement Area Boundary Expansions
  4. County Official Plan Growth Responsibility
  5. Other Considerations

# Implications - ARUs

- Subordinate to the principal dwelling, up to two Additional Residential Units in prime agricultural areas would be permitted provided that any ARUs are within, attached to, or in close proximity to the principle dwelling and subject to MDS, compatibility, and servicing requirements
- Does not impact the Bill 23 'as of right' permission for an ARU on a 'parcel of urban residential land' on full municipal services
- This represents the third provincial definition of an ARU and would permit up to three stand-alone residential units on a rural parcel
- Bill 97 would clarify that where a planning approval is required to establish an ARU, council decisions are not appealable

# Implications - Lot Creation



“4.3.3.1 a) new residential lots created from a lot or parcel of land that existed on January 1, 2023, provided that:

1. agriculture is the principal use of the existing lot or parcel of land;
2. the total number of lots created from a lot or parcel of land as it existed on January 1, 2023 does not exceed three;
3. any residential use is compatible with, and would not hinder, surrounding agricultural operations; and
4. any new lot:
  - i. is located outside of a specialty crop area;
  - ii. complies with the minimum distance separation formulae;
  - iii. will be limited to the minimum size needed to accommodate the use while still ensuring appropriate sewage and water services;
  - iv. has existing access on a public road, with appropriate frontage for ingress and egress; and
  - v. is adjacent to existing non-agricultural land uses or consists primarily of lower-priority agricultural lands. “

# Implications - Lot Creation

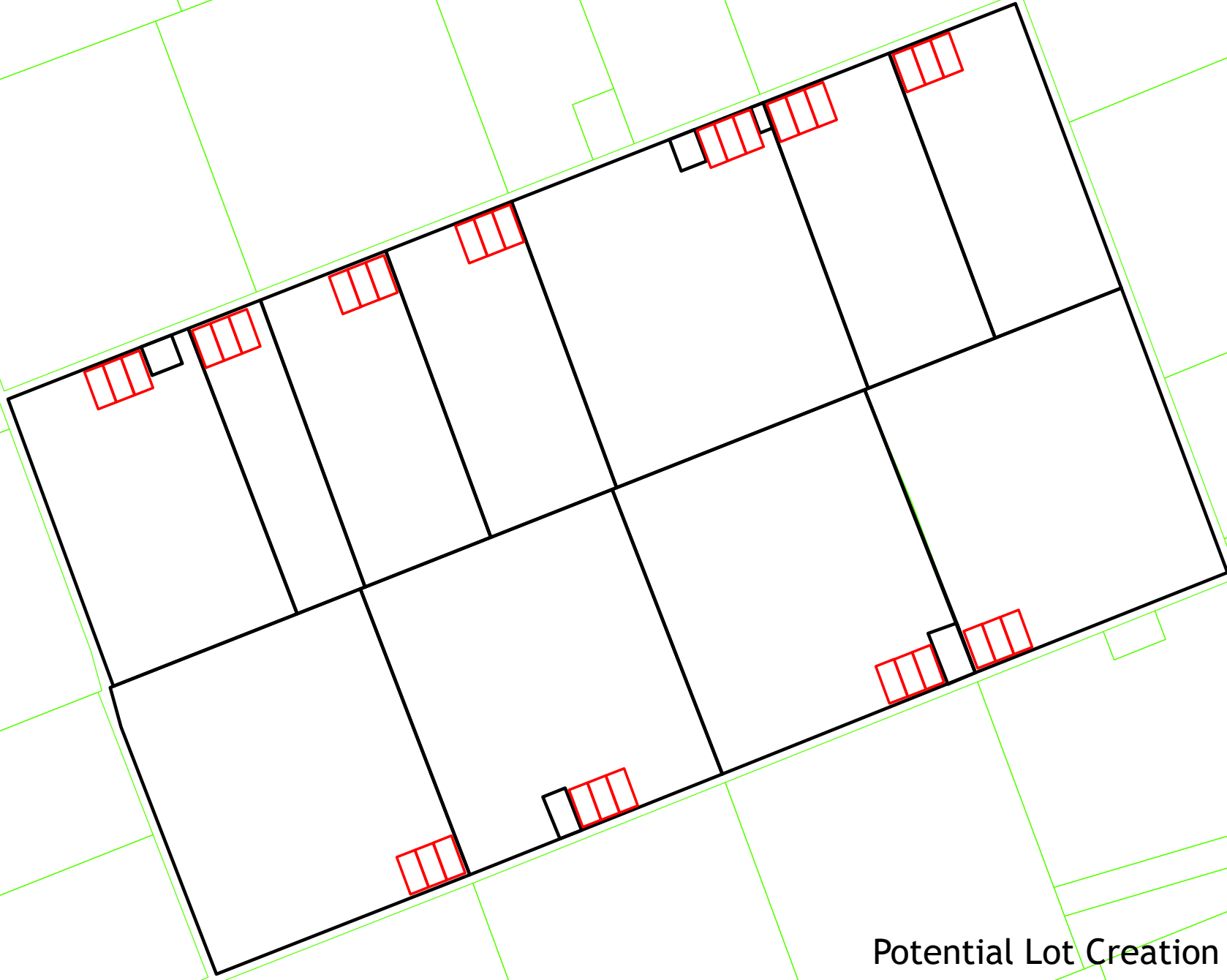


- The proposed policy raises several interpretation questions but would appear to allow for the creation of three residential building lots from a farm subject to criteria
- In addition, the ability to sever a surplus dwelling remains and it would be possible to build up to three residential units on all such lots
- The PPS also specifies that municipalities may not be more restrictive than this policy except to address public health or safety (hazards)
- This proposal represents a fundamental policy change - scattered residential development within agricultural areas has been discouraged for the last 50-years in Ontario

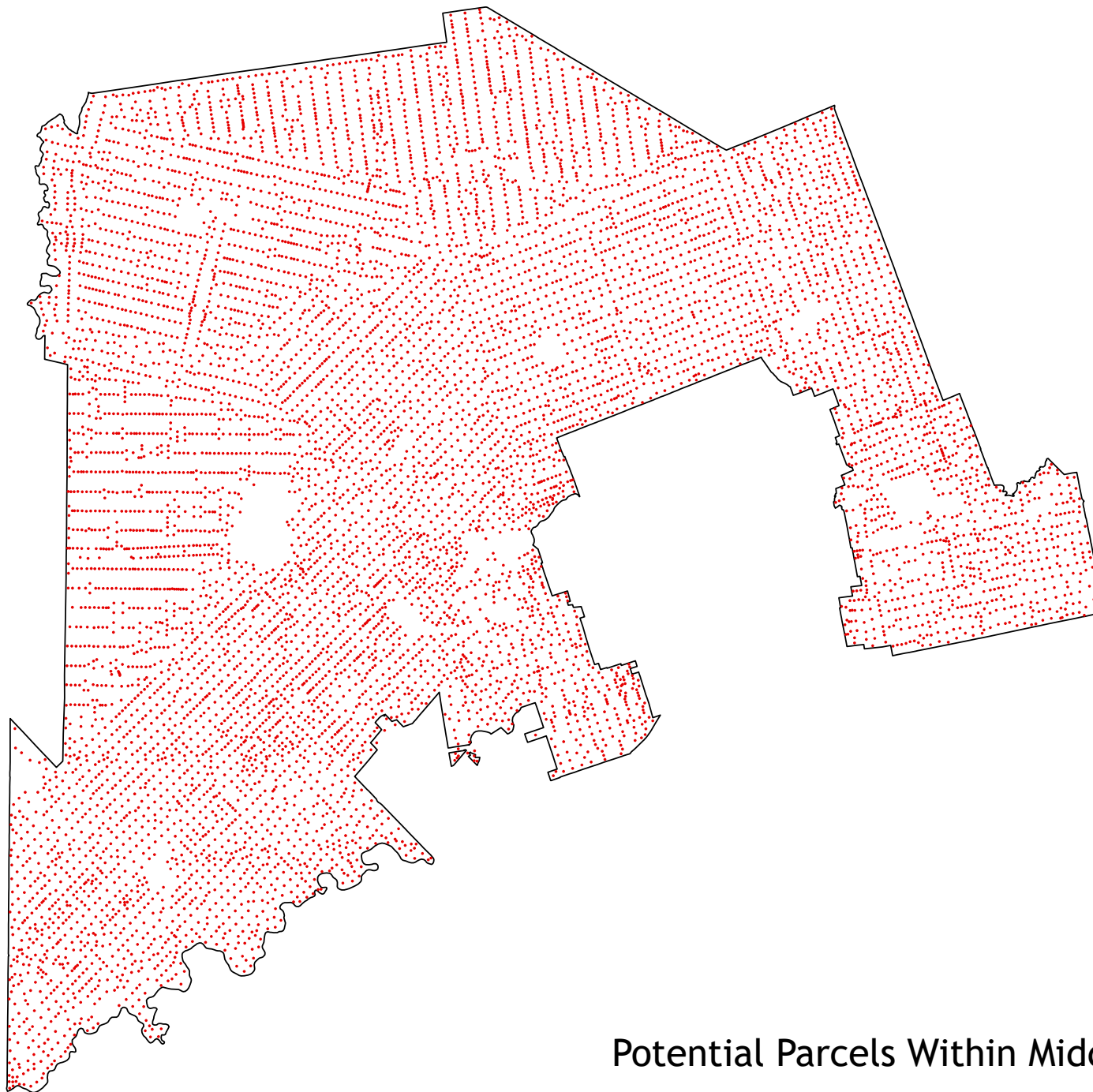


Potential Lot Creation on Two Farms





Potential Lot Creation on Rural Block



Potential Parcels Within Middlesex County

# Implications - Lot Creation



- Dispersed non-farm dwellings have the potential to impact:
  - Agriculture, especially livestock farming
  - Aggregate extraction
  - Environment
  - Provision of municipal and other services
  - Municipal infrastructure including the Transportation Network
- Rural growth may occur at the expense of planned urban growth and may lead to inefficient service provision and underutilized municipal infrastructure within settlements

# Implications - Boundary Adjustments



- Several related changes would impact how municipalities consider settlement boundaries including:
  - Extension of Planning Horizon beyond 25-years, without specifying a maximum time frame
  - Moving away from the requirement for Municipal Comprehensive Review
  - Lessening the criteria for boundary changes including the removal of the requirement to demonstrate 'need'
  - Allow land-owners to seek on a case-by-case basis

# Implications - Boundary Adjustments



- Removal of requirement for Municipal Comprehensive Review
  - May encourage land speculation ahead of growth management planning
  - Potential strain on municipal infrastructure and finances resulting from uncoordinated boundary expansions and disjointed development which require upgrades and expansions of existing infrastructure (coupled with Bill 23 constraints on Development Charges)
  - Adds complexities in planning for infrastructure and public services such as schools
- Additional flexibility for municipalities could be of assistance; however, municipalities should be the final determinants of boundaries

# Implications – County Official Plan Growth



## County Official Plan Growth Responsibility in the proposed PPS:

- “Upper-tier municipalities in consultation with local municipalities shall identify and allocate population, housing and employment projections .. Identify areas where growth and development will be focused .. Identify minimum density targets..”
- It appears that this would require a more fulsome review at the County level however the more flexible settlement area expansion policies seem counter to this direction; clarification required
- This may require renewed population, employment and housing projections including for a potentially longer time period (30 or more years)
- As the Minister is the Approval Authority for the County Official Plan, this would place the eventual authority for growth with the Minister

# Implications – Other Considerations



- It was expected that this announcement would clarify the role that municipalities must take concerning natural heritage (with the retraction of the CAs) however this remains unknown at this time
- Reference to role of housing service manager requires clarification
- There are several areas where the PPS states that a policy is to be implemented 'subject to provincial guidance'; the timely provision of that guidance would greatly assist municipal execution

# Discussion

---





# Resources



[Review of proposed policies adapted from A Place to Grow and Provincial Policy Statement to form a new provincial planning policy instrument](#)

[Proposed Planning Act, City of Toronto Act, 2006, and Ministry of Municipal Affairs and Housing Act Changes \(Schedules 2, 4, and 6 of Bill 97 - the proposed Helping Homebuyers, Protecting Tenants Act, 2023\)](#)

[Bill 97, Helping Homebuyers, Protecting Tenants Act, 2023](#)

[Spring clean-up: Ontario government proposes Planning Act changes to facilitate development approvals](#)

[Policy refresh – Ontario government proposes key changes to provincial planning policy](#)