



July 4, 2023

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

Submitted by email to: growthplanning@ontario.ca

**RE: Comments on the review of proposed policies adapted from A Place to Grow and Provincial Policy Statement to form a new provincial planning policy instrument (“the Provincial Planning Statement”)
ERO Number 019-6813**

On behalf of the Nobleton Landowners Group (NLG), who collectively own approximately 80 ha of land situated within the Nobleton Settlement Area in the Township of King, thank you for undertaking this important work to review and revise the Growth Plan and the Provincial Policy Statement to build more housing faster. NLG commends the government’s work to proactively generate housing supply through the proposed Provincial Planning Statement and has a proposal in support of these efforts.

Our comments relate specifically to wastewater infrastructure planning and the government’s intention to maintain the existing Greenbelt policies, as stated in the ERO posting:

Relationship to Greenbelt Plan (2017)

The government is proposing an administrative and housing [sic] keeping amendment to the Greenbelt Plan so that the policies in the current Greenbelt Plan are maintained should the PPS, 2020 and A Place to Grow be revoked.

This scoped policy change would maintain the existing Greenbelt Plan standards and clarifies that the existing policy connections in the Greenbelt Plan (2017) to the PPS, 2020 and A Place To Grow remain in effect.

The government’s intention is also articulated in its Proposed Approach to Implementation of the proposed Provincial Planning Statement, dated April 6, 2023, which states as follows:

Approach to maintain existing Greenbelt policies

Should the proposed Provincial Planning Statement come into effect, there is the potential for the revocation of A Place to Grow and the changes made to the Provincial

Policy Statement policies to affect the implementation of the policies in the Greenbelt Plan. To address this issue, an amendment is being proposed to the Greenbelt Plan that would indicate that the previous policies in A Place to Grow and the Provincial Policy Statement would continue to apply in those cases where the Greenbelt Plan refers to them. This would ensure that there would be no change to how the Greenbelt Plan policies are implemented if the proposed Provincial Planning Statement comes into effect.

These statements make it clear that this government does not intend to change the Greenbelt Plan in a manner that would result in 'relaxing' strong policies already in place that serve to protect lands outside of Settlement Areas in the Greenbelt from development.

We generally agree with this principle and we are not asking this government to revise the Greenbelt Plan or to reduce the protections set out therein. However, we are concerned with the notion of current Growth Plan or PPS policies continuing to apply through unchanged references in the Greenbelt Plan despite those policies otherwise being modified or repealed through the proposed Provincial Planning Statement.

While we understand that legislative amendments often include transition language providing that a previous version of the legislation continues to apply in certain circumstances, those provisions are usually intended to clarify that one set of rules will apply to events that occurred before the amendments took effect (or were announced) and another set of rules will apply after that date. Unless there is a clear intention for amendments to apply retroactively, the idea is that decisions made in reliance on the previous rules should not be subject to new rules not known at the time the decisions were made.

This approach may be appropriate for point-in-time legislative transition but in a forward-looking policy context it is not suitable to subject future decisions to old policy that has been frozen in time. If a policy has been replaced or superseded by a new policy which is intended to apply to future decisions, the outdated version of the policy should not simultaneously "live on" and also continue to apply to future decisions. This will lead to confusion and inconsistent policy implementation.

Accordingly, we are asking this government to make it clear in the new Provincial Planning Statement which of the policies in the existing Growth Plan and Provincial Policy Statement are being continued, modified, replaced or deleted, through either clear transition text or perhaps a table of concordance, without the old versions of the policies continuing to simultaneously apply.

Of paramount interest to the NLG are the wastewater infrastructure policies in sections 3.2.6 of the Growth Plan and 4.2.2 of the Greenbelt Plan. Since the current lake-based servicing restrictions in policy 3.2.6.3(b) of the Growth Plan are not proposed to be carried forward, the new Provincial Planning Statement should make it clear that the current lake-based servicing restrictions will no longer apply to decisions made under policy 4.2.2.1 of the Greenbelt Plan. Alternatively, if current policy 3.2.6.3(b) is going to be carried forward in some modified form, it should be clear that it is the modified policy that is to be referenced for the purposes of policy 4.2.2.1 going forward.

An amendment to the Greenbelt Plan is not necessary to achieve this outcome so long as the new Provincial Planning Statement clearly indicates how its new policies operate to replace or supersede the old policy references.

Issue Background (see attached Brief)

Nobleton is identified as a “Towns and Villages” by the Growth Plan and the Greenbelt Plan, and is a Designated Greenfield Area in the York Region Official Plan.

Situated between King City and Bolton, Nobleton is ideally situated to help the Province meet its commitment to build 1.5 million homes over the next ten years as part of the More Homes Built Faster: Ontario’s Housing Supply Action Plan: 2022-2023. It is also in close proximity to the planned Highway 413 corridor and Pearson Airport.

However, despite being within an approved Settlement Area, the Region and Township have historically limited the amount of growth being directed to Nobleton due to ‘servicing constraints’. This is an issue facing several communities, including Caledon and Clarington, where growth prospects would significantly improve if the communities were not prohibited from even considering alternative lake-based sanitary servicing options. Nobleton currently relies on a stand-alone sanitary treatment plant that discharges to a tributary of the Humber River.

The 2005 Greenbelt Plan (Policy 4.2.2.2) restricted lake-based servicing to settlement areas as a means of limiting growth. In 2017, a similar policy (with some added flexibility) was transferred into the Growth Plan (now Policy 3.2.6.3).

We believe these generic restrictions on lake-based servicing have outlived their utility and are now working at cross purposes to the achievement of important provincial priorities. Since 2005, the Province has introduced a far more advanced policy approach to growth management and limiting sprawl. Yet Growth Plan Policy 3.2.6.3(b) remains and has had the unintended consequence of restricting servicing options to accommodate planned growth in appropriate locations that, in some cases, may be more costly for municipalities and place an unnecessary burden on the environment.

York Region supports this change and requested in 2015, 2016 and in 2020 that the Province review Growth Plan Policy 3.2.6.3 to provide more flexibility for servicing options for existing settlement areas. As currently worded, the Policy prevents the Region from considering lake-based servicing as part of a municipal environmental assessment, even though lake-based servicing may be preferable from both an ecological and economical perspective.

Lake-Based Servicing System

We recognize that lake-based servicing may not be appropriate for all settlement areas, given their unique location and service demands. However, municipalities should be permitted to consider all servicing options through an environmental assessment review which carefully evaluates impacts.

Nobleton is one example where extending the lake-based servicing system is a viable servicing option. In the long term, a lake-based alternative would be an economical, sustainable solution and would

remove phosphorous loading into the Humber River. It is also in-line with provincial policy since the 1980s, which has sought to reduce the reliance on stand-alone sanitary treatment plants. We note that the surrounding communities of Bolton, King City and Kleinberg all use lake-based services. At a minimum, the new Provincial Planning Statement should allow this option to be evaluated.

Proposed Deletion or Modification of Policy 3.2.6.3

As noted above, if Growth Plan Policy 3.2.6.3 is being deleted, the new Provincial Planning Statement should make it clear that Greenbelt Policy 4.2.2.1 no longer requires the planning, design and construction of infrastructure to accord to outdated policy restrictions on lake-based servicing.

Alternatively, if the Province intends to carry forward Policy 3.2.6.3 into the new Provincial Planning Statement in some fashion, the following changes would appropriately update Policy 3.2.6.3(b) as it applies to infrastructure decisions under the Greenbelt Plan and bring it in line with other provincial objectives to increase housing supply, create jobs, attract better investment, protect the environment and better align and support infrastructure planning:

(we are proposing to eliminate the words with ~~striketrough~~):

3.2.6.3 For *settlement areas* that are serviced by rivers, inland lakes, or groundwater, municipalities will not be permitted to extend water or wastewater services from a Great Lakes source unless:

- b. in the case of an upper- or single-tier municipality ~~with an urban growth centre outside of the Greenbelt Area~~:
 - i. the need for the extension has been demonstrated;
 - ii. the increased servicing capacity will only be allocated to existing *settlement areas* ~~with urban growth centres~~, and
 - iii. the municipality has completed the applicable environmental assessment process in accordance with the Ontario Environmental Assessment Act; or

In this case, Nobleton is an existing *settlement area* but does not have an *urban growth centre*. Therefore, the proposed change would allow York Region to consider lake-based servicing as a servicing option for Nobleton subject to demonstrating: (i) the need for an extension, (ii) that the servicing will only be allocated to the existing *settlement area*, and (iii) completion of an environmental assessment process.

The Greenbelt Plan (4.2.2.2) will continue to restrict expansions of municipal or private communal servicing beyond existing settlement areas, as follows:

- 4.2.2.2 The extension of municipal or private communal sewage or water services outside of a settlement area boundary shall only be permitted in the case of health issues or to service existing uses and the expansion thereof adjacent to the settlement area. Notwithstanding the above, where municipal water services exist outside

of settlement areas, existing uses within the service area boundary as defined by the environmental assessment may be connected to such a service.

Therefore, the proposed change does not contemplate expanding an existing settlement area in the Greenbelt Plan; it does not contemplate expanding services beyond what is set out in the Greenbelt Plan; and it does not stipulate lake-based servicing must be applied. The proposed change will remove a policy restriction in the Growth Plan that currently limits governments from at least considering all engineering solutions for servicing growth as part of a municipal environmental assessment process.

Technical Issues to Consider with “Approach to maintain Greenbelt Policies”

In addition to the substantive merits of ensuring that an appropriate forward-looking and consistent infrastructure policy regime is established, there are technical issues that would arise if the Province were to instead seek to crystallize the current Growth Plan policies and apply them to future decisions under the Greenbelt Plan.

In the absence of clear transition language or a table of concordance, it would be unclear how reference in the Greenbelt Plan to “previous policies” in provincial plans or policy statements that no longer exist would work in practice. Requiring applicants to demonstrate consistency or conformity with a Growth Plan policy that has been revoked and become stale will undoubtedly lead to a confusing policy framework to implement and interpret.

For example, Growth Plan Policy 3.2.6.2(b) states:

3.2.6.2 Municipal water and wastewater systems and private communal water and wastewater systems will be planned, designed and constructed, or expanded in accordance with the following:

- (b) the system will serve growth in a manner that supports achievement of the minimum intensification and density targets in the (Growth Plan);

If the Greenbelt Plan continues to reference an unchanged and revoked Policy 3.2.6 of the Growth Plan, this Policy 3.2.6.2(b) will be impossible to be consistent with (as required under subsection 3(5) of the *Planning Act*) since the minimum intensification and density targets of the Growth Plan will no longer exist or accurately reflect updated growth management direction in the proposed Provincial Planning Statement.

Summary

In conclusion, while we understand and support the Province’s intention to maintain the current Greenbelt protections, the cross-references within the Greenbelt Plan must be allowed to evolve together with the policies they refer to. If the Province does not wish to amend the Greenbelt Plan at this time, the existing cross-references could be maintained by adding transition language and/or a table of concordance within the new Provincial Planning Statement which clearly provides how the infrastructure policies apply going forward.

Allowing municipalities to consider and evaluate lake-based servicing for their existing settlement areas – rather than prohibiting these options outright –could have significant benefits both in terms of building much needed housing and for the environment. This proposed policy change can be made without amending the Greenbelt Plan or fundamentally revising the protections that exist today.

Thank you in advance for considering our comments.

We welcome any further discussion on the proposed changes.

Yours truly,

MHBC

A handwritten signature in black ink, appearing to read "Debra Walker", with a horizontal line extending to the right.

Debra Walker

cc. Nobleton Landowner Group