

Staff Report



To	City Council
Service Area	Infrastructure, Development and Enterprise Services
Date	Tuesday, December 5, 2023
Subject	Official Plan Amendment 80 – Minister’s Reversal of Provincial Modifications

Recommendation

1. That Report 2023-459 including feedback outlined in Attachment 1 be submitted to the Ministry of Municipal Affairs and Housing as the comments from City Council on the modifications and proposed changes to Official Plan Amendment 80.
 2. That staff be directed to work with Ministry of Municipal Affairs and Housing to retain modifications that are conformity related.
 3. That staff be directed to prepare detailed cost estimates of additional costs incurred by the City as a result of the Provincial modifications to OPA 80 on April 11, 2023 and that any additional costs that have occurred since the Provincial announcement on October 23, 2023 and that they be submitted to the Province.
 4. That staff be directed to submit comments as outlined in Report 2023-459 to the Ministry of Municipal Affairs and Housing on ERO Posting 019-7885 regarding the Planning Statute Law Amendment Act.
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Executive Summary

Purpose of Report

To provide information about the Minister of Municipal Affairs and Housing’s announcement about the reversal of the Minister’s decision on the City’s municipal comprehensive review Official Plan Amendment 80. This report provides staff recommendations for comments to be provided to the Ministry in response to the announcement. This report also responds to the ERO posting for Bill 150, the Planning Statute Law Amendment Act, 2023, that, if passed, would wind back provincial changes to official plans and official plan amendments.

Key Findings

On July 11, 2022, Council adopted Official Plan Amendment 80, the City’s municipal comprehensive review of the Official Plan. On April 12, 2023, the Minister approved OPA 80 with 18 modifications.

On November 2, 2023, the Minister proposed to bring forward legislation that, if passed, will bring into effect the official plans or official plan amendments as adopted by municipal council without provincial modifications, except for any

modifications that are necessary to protect matters of public health and safety, or which are required to align with legislation or regulations.

The Minister is inviting comments and information from municipalities about the modifications to Official Plans including proposed changes and updates that the municipality may support. Comments are also being requested on the Planning Statute Law Amendment Act, 2023 that if passed, would enact the Official Plan Adjustments Act, 2023 which would reverse the Minister's decisions on official plans.

With respect to the Minister's modifications to OPA 80, staff's detailed and summary comments are provided. Generally, staff support general modifications that are conformity related and request that a full public process be followed for site specific and area specific amendments.

Bill 150 was introduced on November 16, 2023, staff are supportive of the proposed legislation and ask for further shielding from appeals to the Ontario Land Tribunal of any potential future City initiated modifications to the Official Plan.

Strategic Plan Alignment

The City's Official Plan aligns with the City Building, Environment and People and Economy priority areas of the Strategic Plan. The Official Plan provides policies to support the provision of a full range and mix of housing options and densities; the protection of the natural environment; to grow Guelph's economy; and support renewal of Downtown.

Financial Implications

The reversal of the Minister's decision has impacts on human resources expended to implement OPA 80 as approved including the review of servicing needs for areas where growth levels were increased, updated mapping and Official Plan text resulting from the Minister's decision. A detailed cost estimate of this work and staff time will be sent to the Province for re-imburement.

The financial impact of OPA 80 was reported on in [Report 2022-225](#).

Report

Official Plan Amendment 80 and Provincial Approval Process

On July 11, 2022, Council adopted Official Plan Amendment 80, the City's municipal comprehensive review of the Official Plan, and submitted it to the Minister of Municipal Affairs and Housing for approval. On April 12, 2023, the Minister announced approval of OPA 80 with a posting on the Environmental Register of Ontario. Through the decision, 18 modifications were made to the Council adopted OPA 80 which included site and area specific modifications that resulted from comments submitted directly to the Ministry and not considered by staff or City Council during the public process for OPA 80.

The Minister's decision approved the City's land needs assessment, growth management policies and population and employment targets. The background supporting studies for OPA 80 demonstrated that the City has sufficient land available and designated to meet the projections and targets for 2051. The policies set out in OPA 80, including heights and densities and the land use schedule, represent good planning and support the achievement of the population and

employment targets within the servicing capacity that is planned for and available recognizing that Guelph is a ground water dependent community. OPA 80 as adopted by Council supports a balanced approach to land use planning which provides sufficient lands designated for housing, employment and services needed to support resident's daily lives based on a projected population of 208,000. The land needs assessment identified that abundant lands are designated for residential use to meet the housing needs for current and future residents however, the supply of employment lands is concerning with limited lands available toward the end of the forecast period.

On November 2, 2023, the Minister proposed to bring forward legislation that, if passed, will bring into effect the official plans or official plan amendments as adopted by municipal council without provincial modifications, except for any modifications that are necessary to protect matters of public health and safety, or which are required to align with legislation or regulations.

The Minister is inviting comments and information from municipalities about the modifications to Official Plans including proposed changes and updates that the municipality may support. Comments are to be received by December 7, 2023. The Minister provided 45 days for municipalities to submit information about the modifications to the official plans that were originally submitted to the Ministry, including:

1. Circumstances or projects where construction has already begun in relation to the official plan or official plan amendment decisions, particularly those projects that are directly reliant on the modifications made to the plan through the ministry's decision; and
2. If there are changes that the municipality would like to see made to the official plan, based on the modifications that the province had previously made, and which you support. Municipal feedback on the original official plan submitted to the province will be important to supporting its implementation.

Bill 150: An Act to enact the Official Plan Adjustments Act, 2023

On November 16, 2023, the Planning Statute Law Amendment Act, 2023 was introduced (see [ERO posting 019-7885](#)). This new Act, if passed, would wind back provincial changes to official plans and official plan amendments, except in circumstances where construction has begun or where doing so would contravene existing provincial legislation and regulations or for public health and safety. This includes winding back changes to urban boundaries while maintaining protections for the Greenbelt.

The proposed legislation if passed, would:

- reverse provincial decisions on Official Plans affecting 12 municipalities, comprising those issued on:
- approve the municipally-adopted Official Plans, retroactive to the date of the provincial approval;
- modify limited portions of the council-adopted Official Plans to address potential conflicts with legislation/regulations; and
- outline transition rules that would apply to applications made since the official plans were approved;
- introduce immunity provisions to help mitigate legal risk resulting from this legislation.

The Ministry is seeking input on both the legislation and potential implementation considerations associated with matters arising from the reversal of the official plan decisions.

Comments on Reversal of Provincial Decision on OPA 80

Circumstances or projects reliant on modifications

There are no circumstances or projects where construction has already begun that are reliant on the modifications to the Official Plan.

Commentary on Modifications

The following provides an overview of the Minister's modifications and staff's commentary and recommendation for each.

Policy and Secondary Plan Modifications

General and minor modifications: These modifications resulted in changes to references to ministries, tribunals or the GRCA; the addition of definitions; and new policy direction for parking and goods movement. One policy was modified to change the name Ontario Municipal Board to the Ontario Land Tribunal. Thirteen policies were modified to remove references to the Grand River Conservation Authority (GRCA), the Province, or Ministries. Three policies were modified to change references to Provincial Ministries and the GRCA to the Federal Department of Fisheries and Oceans (DFO). A policy in Chapter 5 (Transportation System) of the Official Plan was modified to include reference to establishing priority routes for goods movement to facilitate movement of goods into and out of employment areas and areas of significant commercial activity and to provide alternate routes to connect to the provincial network. A new policy was added that requires the City to amend its Zoning Bylaw to reduce minimum parking requirements for transit-supportive development within the Major Transit Station Area. Section 9.1.3 Urban Agriculture was modified to include reference within the objectives to maintaining and enhancing connections to the agri-food network within the agricultural system. Definitions of agricultural system and agri-food network were added to the Official Plan. The definition of heritage attributes was modified.

Staff Comment: No concerns with these modifications as they were made to align with legislation or current names or definitions and they represent good planning and are consistent with provincial policy direction.

Environmental policy modification: Policy 4.1.3.9.1 i) which provides criteria for the designation of significant wildlife habitat was modified to remove the reference to seasonal concentration areas and replaces it with deer wintering areas as identified by the Province.

Staff Comment: The City's policies identify many types of seasonal concentration areas in accordance with the Province's Significant Wildlife Habitat Technical Guide and the Province's Significant Wildlife Habitat Criteria Schedules for EcoRegion 6E. As noted, the intent of the policy was to ensure consistency with provincial legislation, and the policy as submitted is consistent with the Provincial Policy Statement (and the proposed Provincial Planning Statement), identifying and protecting a variety of Significant Wildlife Habitats. The Minister's modification removes the consideration of a variety of Significant Wildlife Habitat for consideration and protection through the Official Plan. Staff note that the modification is inconsistent with the PPS and is not reflective of provincial guidance

and creates inconsistencies within the Official Plan, including the Objectives and the content of Table 4.1, as a corresponding modification was not made to similar language through the approval. Therefore, staff are not supportive of this modification and feel that further discussion with Ministry staff is warranted and that the appropriate time to consider modifications to the natural heritage system policies would be during a City-initiated review of these sections of the Official Plan.

Service Commercial land use designation modification: The modification to these policies introduces new permitted uses into the land use designation. Office, warehouse and repair service uses have been explicitly permitted. The decision also introduced a policy requiring the application of Provincial guidelines to promote land use compatibility between these new uses and residential and sensitive land uses. Provincial guidelines include minimum separation distances, sound proofing, odour control, landscaping, and berming.

Staff comment: The review of the service commercial land use designation and associated policies within Section 9.4.6 of the Official Plan was not within the scope of OPA 80, was not considered by Council or the public, and no modifications to this section of the Official Plan were submitted to MMAH for their review or approval. Staff recommend that the policies not be modified at this time and that they be considered through a city-initiated review of commercial policies and land use permissions which includes a public process.

Special Policy Area modification: A new policy was added to the Official Plan that states that any changes or modifications to policies, land use designations or boundaries applying to the Special Policy Area must be approved by the Minister of Municipal Affairs and Housing and the Minister of Natural Resources and Forestry prior to the City approving any changes or modifications. The Special Policy Area is a Provincially regulated area where communities were historically developed within the floodplain and direction is provided for development/redevelopment.

Staff Comment: Staff agree with this direction that comprehensive study of the SPA is required prior to changes being made to land use permissions (including changes to heights and densities) in this area to protect health and safety due to flood hazard risk.

Downtown height schedule: The Minister's decision modified the height schedule for Downtown. With the exception of the Special Policy Area (SPA), the modified minimum height was 2 storeys and the modified maximum height was 23 storeys. Policy 11.1.7.2.1 which set out how the height schedule was established and how it recognizes the Basilica as a landmark and signature building was modified to delete these references. The policies stating that lower maximum heights may be established to maintain long views to the Basilica and within the Residential 1 Areas were deleted. However, the decision maintains the policy that establishes the protected views to the Basilica of Our Lady and maintains that all policies apply when considering maximum height.

Staff Comment: The downtown/urban growth centre consists of multiple land use designations and the height schedule was established through modelling, land economic analysis and engagement resulting in the tallest buildings being situated at the periphery of downtown. Through OPA 80, heights were increased by 2 storeys where density bonusing previously applied. The height and density permissions as set out in OPA 80 provided sufficient capacity to meet the increased density target of 200 persons and jobs per hectare by 2051 (where the City was

required to plan for a density target of 150 persons and jobs per hectare) and allowed for development over and above this target and planning horizon. A detailed review of the height schedule was not completed through OPA 80 because the growth management analysis (including Land Needs Assessment, Housing Analysis, Residential Intensification Study and Employment Study) demonstrated that changes to the land use schedule and height and density policies were not required to meet the A Place to Grow policy and density requirements. Changes to the height schedule are best addressed through a comprehensive review with consideration for the policy framework of the secondary plan, ongoing heritage conservation district studies (Downtown and Ward West), urban design guidelines and supporting studies. Proponents also have the ability to apply for site specific OPAs and may demonstrate appropriateness of changes to land use permissions through a complete application with supporting studies and opportunity for public consultation.

Staff reviewed potential for increases in height as a result of the Minister's April 2023 decision to support Engineering's Downtown Infrastructure Renewal servicing project and found that there are sites, albeit limited, that could potentially be considered for additional height based on site characteristics, surrounding land uses and policy conformity. Generally, areas south of the rail line may have the opportunity for increased height outside of the protected view corridors and SPA. However, a design review and update to modelling would be helpful in understanding impacts of increased height. Staff recommend that further discussions with Ministry staff be held to consider potential changes to the height schedule in appropriate areas of Downtown which will take into account infrastructure investments and that any identified modifications could be implemented through the Minister's approval process.

Guelph Innovation District Secondary Plan land use schedule: The land use schedule for the lands west of the Eramosa River has been modified to significantly reduce the area of employment designations and to expand the residential area and commercial mixed-use corridor within the secondary plan area. An additional park symbol has been added where lands were previously designated employment mixed use. A policy for the main street area has been modified to delete references to it as a transition between employment and residential areas. These changes result in the addition of approximately 8000 people and the loss of 26 hectares of employment land.

Staff Comment: Changes to the land use schedule have not been considered through a public process with supporting studies and were not contemplated through OPA 80 background studies and reports. Increases to residential lands are not required within the GID area to meet the City's population forecasts or housing unit requirements to the year 2051. The lands west of the Eramosa River and north of Stone Road are planned in the existing Official Plan to provide housing for 4,600 people.

The land use modifications conflict with the approval of the employment area designations on Schedule 1b of OPA 80 and with the policy framework set out in the GID Secondary Plan. It is unclear how the vision, objectives, and policies of the GID will be met with the revised land use schedule.

The reduction in employment lands could result in the loss of approximately 1500 - 2000 jobs. This reduction greatly impacts the City's supply of employment lands and the ability to meet projected employment. The change in type of employment to primarily mixed-use fundamentally changes the objective for the GID to serve predominately as the home of innovative, sustainable employment uses with an adjacent urban village connecting residential and compatible employment uses and to create a knowledge-based innovation cluster.

Changes to land use were not considered in relation to the Water Supply Master Plan given that the master plan indicated that supply is constrained and increasing population beyond 2051 projection could impact ability to supply water to meet demands of future residents and businesses of Guelph.

Staff do not recommend modifications to the land use schedule for the Guelph Innovation District Secondary Plan at this time. The Secondary Plan provides a process for consideration of land use changes, including height through the Block Plan process and associated Official Plan Amendment applications. It is appropriate for land use changes to be considered during the required Block Plan process when supporting studies are completed to allow for proper assessment of any proposed amendments. It is also appropriate for the protected employment area as identified on Schedule 1b of OPA 80 within the GID Secondary Plan area to be assessed during the next municipal comprehensive review (in approximately 5 years) when implications to the supply of employment lands can be appropriately assessed on a city-wide basis.

Staff support the reversal of the Minister's modifications to the GID land use schedule. The reversal ensures that the City has sufficient employment lands for the planning horizon to 2051 while maintaining the vision for a compact, mixed-use urban village with an opportunity to review as part of the next municipal comprehensive review.

Guelph Innovation District building heights schedule: The height schedule was significantly revised with the maximum height increasing to 18 storeys along Victoria Road South. Minimum heights for the main street and commercial mixed-use corridor have been reduced to 3 storeys from 4 storeys.

Staff Comment: As noted above, staff are not supportive of changes to the building heights schedule outside of the public process set out in the secondary plan which is through the Block Plan process and subsequent applications under the Planning Act including draft plan of subdivision and zoning amendment applications. Staff will work with the property owner as they initiate the planning process to look at potential increases in height through a planning application process.

Site Specific modifications:

41-45 George Street: The Minister's decision removed the site-specific modification approved by City Council to change the land use designation for this site from High Density Residential to Medium Density Residential.

Staff Comment: Staff did not support City Council's decision to down-designate this property and request that the modification to Medium Density Residential be refused. Staff continue to recommend that the High Density Residential designation be maintained for this property because it is appropriate for this site; this site is a brownfield and the designation will help to realize remediation and redevelopment; future redevelopment is subject to zoning regulations; and the City's urban design

policies, guidelines and manuals apply to this site to ensure that redevelopment is appropriate and compatible.

230 Willow Road: The decision modified the land use designation of 230 Willow Road and part of 100 Ridgewood Avenue to High Density Residential from Low Density Residential.

Staff Comment: Staff are generally supportive of this land use designation change. However, the proposal to change the designation is appropriately considered through a site specific Official Plan Amendment with supporting studies demonstrating that high density residential could be accommodated on the site.

280 Clair Road West: The land use designation of 280 Clair Road West was amended from Industrial to High Density Residential and requires that Provincial guidelines to promote land use compatibility be followed and implemented through the Zoning Bylaw. This site is located within the provincially significant employment zone and protected employment area as identified on Schedule 1b of OPA 80.

Staff Comment: Staff are supportive of the reversal of this land use designation change. This property is adjacent to Denso Manufacturing and the Tim Horton's Distribution Centre, both major industrial facilities as well as a secure data centre. The PPS requires that "Major facilities (which includes manufacturing/industrial) and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures". In recent discussions with Denso Manufacturing, they have advised that they have expansion plans and support staff and the Province in maintaining the Industrial designation. They expect increased truck traffic and noise and have concerns with the impact of residential uses adjacent to their site. In order to consider permitting sensitive residential uses within the potential area of influence or minimum recommended setback distance of an industrial use, site-specific technical studies are required in accordance with the Province's Guideline D-6 to determine any compatibility issues which may prevent the encroachment of sensitive uses on established industrial uses or may be addressed through mitigation. To date, no studies have been completed with respect to the introduction of sensitive residential land uses at 280 Clair Road West.

The PPS is clear that sensitive land uses (which includes residential uses) should not be introduced to the detriment of industrial uses. Further, the PPS states that planning authorities shall protect the long-term viability of existing or planned industrial, manufacturing or other uses that are vulnerable to encroachment by sensitive land uses. Provincially significant employment zones are identified by the Province to provide opportunities to improve coordination between land use planning, economic development and infrastructure investments to support investment and job creation over the longer-term. These areas are to be protected for the purpose of long-term planning for job creation and economic development. Given the existing and planned industrial uses within the Provincially Significant Employment Zone which includes 280 Clair Road West, staff are not supportive of a change in land use from Industrial to High Density Residential for this property. The owner would need further discussion with the Province on the Provincially significant employment zone and how to amend those provincial instruments.

384 Crawley Road: The decision provided site-specific policies for 384 Crawley Road to specifically permit Industrial development and to require that nothing in the Official Plan prevent the construction of industrial buildings and ancillary buildings on this property. The decision set out the specific Official Plan policies that do not apply to this site. The Official Plan schedules for the Natural Heritage System were modified for 384 Crawley Road to remove features. The decision set out a maximum gross floor area of 160,000 square metres and height of 46 metres for the industrial building and required conveyance of a public road.

Staff Comment: Staff are supportive of the reversal of the land use designation and policy changes for 384 Crawley Road. Staff found the policy language introduced through the Minister's modifications to be challenging and contrary to the PPS and the Planning Act. City staff met with the landowner on a number of occasions and provided advice on the complete application requirements for a development application under the Planning Act and continue to recommend that a site-specific application is the appropriate process. Staff continue to be supportive of a development application process and this process was supported by a council resolution.

Considerations for Cost Implications

At the present time, cost estimations for staff time committed to implementing the Minister's decision on OPA 80 and responding to the reversal have not been developed. We request that the City's rights be reserved to submit costs at a future date.

Comments on Bill 150

Staff are supportive of the language proposed for Bill 150 which reverses the Minister's approval of OPA 80. Staff are also supportive of the inclusion of the revisions to the Downtown height schedule for the Special Policy Area and associated policy. Staff agree that a comprehensive study of the SPA is required prior to changes being made to land use permissions in this area to protect health and safety due to flood hazard risk.

Staff are also supportive of the immunity provisions which are proposed to help mitigate legal risk resulting from this legislation.

We have no concerns with the proposed transition provisions which would bring OPA 80 into effect as adopted by City Council as of April 11, 2023.

Financial Implications

The reversal of the Minister's decision has impacts on human resources expended to implement OPA 80 as approved including the review of servicing needs for areas where growth levels were increased through the Minister's decision.

The financial impact of OPA 80 was reported on in [Report 2022-225](#).

Consultations

An internal staff team consisting of staff from the following areas provided input to support the comments contained in this report: Economic Development and Tourism, Engineering, Environmental Services, Finance, Legal, and Intergovernmental Services.

Attachments

Attachment-1 City of Guelph feedback on Minister's reversal of Official Plan Amendment 80 decision

Attachment-2 [Minister's decision with respect to Official Plan Amendment 80](#)

Attachment-3 Official Plan Amendment 80 Minister's Reversal - Council Presentation

Departmental Approval

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