

# ACO COMMENTS ON THE PROPOSED PROVINCIAL PLANNING STATEMENT

May 30, 2023

Architectural Conservancy Ontario (ACO) is the largest heritage advocacy organization in Ontario with 17 branches across the province. Our objective is to promote the identification, conservation and reuse of buildings, structures, districts and landscapes of cultural heritage significance. Under our Keep, Fix and Reuse slogan, we advocate for socially and environmentally sustainable solutions for Ontario's older building stock.

ACO welcomes the opportunity to comment on the province's proposed Provincial Planning Statement, 2023 (PPS 2023), which would replace the existing Provincial Policy Statement, 2020 (PPS 2020) and the Growth Plan for the Greater Golden Horseshoe.

## General Comments

ACO finds that the proposed PPS 2023 substantially weakens the policies in the existing PPS 2020 with respect to cultural heritage. As such, it would undermine a vital part of Ontario's heritage protection regime.

Under the pillar, "*Balance housing with resources*" the proposal says that the proposed policies would, with respect to heritage resources, "*Update the cultural heritage policies to align with Ontario Heritage Act (OHA) amendments through Bill 108 and Bill 23, with a focus on conserving protected heritage properties.*"

The Planning Act, in section 2(d), identifies "*the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest*" as one of the matters of provincial interest. The Minister and all planning authorities "*shall have regard to*" these matters in carrying out their responsibilities.

This raises an important question whether, as proposed, the severely curbed policies in section 4.6 of the PPS 2023 are aligned with the intent and spirit of the Planning Act, where the conservation of features of heritage interest are a "matter of provincial interest."

Section 2 of the Planning Act also identifies other matters of provincial interest relevant to the conservation of cultural heritage and, more broadly, the retention and reuse of older buildings, including:

(g) *minimization of waste; ...*

(q) *the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians;*

(r) *the promotion of built form that (i) is well-designed, (ii) encourages a sense of place, and (iii) provides for public spaces that are of high quality, safe, accessible, attractive and vibrant; and*

*(s) the mitigation of greenhouse gas emissions and adaptation to a changing climate.*

## **Specific Comments**

ACO has the following comments on specific sections of the PPS 2023.

### **1. 2.9 Energy Conservation, Air Quality and Climate Change**

Proposed PPS 2023 policy 2.9 does not align with certain matters of provincial interest set out in section 2 of the Planning Act such as the interests set out in clauses (d), (g), (q), (r) and (s) cited above. There is no recognition of the importance of retaining existing buildings and structures, and potentially adaptively reusing them (rather than relegating them to landfill sites), when addressing climate change, reducing greenhouse gas emissions, and ensuring communities are places where citizens are proud to live and work. ACO would like to see the PPS 2023 clearly recognize and acknowledge that the renovation sector (not the new construction sector) is now the predominant wing of the development industry employing tens of thousands of Ontarians.

For environmental and climate change reasons the most sustainable options are those that keep, fix and reuse our older buildings. One has only to consider the greater carbon/greenhouse gas impacts of new construction (and the new public infrastructure often required to service it) compared to the lower carbon footprint for the re-use of current, already serviced buildings. In crafting PPS 2023 housing policies, the province should place greater emphasis/priority on approaches and projects that upgrade and re-use Ontario's existing building stock for housing and other purposes. The PPS 2023 policies should also include requirements that municipalities establish, though their Official Plans, targets for building upgrading, renovation and reuse.

As a specific example of the kind of changes required, **ACO proposes the following wording for an additional clause in the proposed PPS 2023 policy 2.9: “determining whether to demolish or retain, and potentially adaptively re-use, existing buildings and structures.”**

### **2. 4.6 Cultural Heritage and Archaeology**

**2(a)** *4.6.1 Protected heritage property, which may contain built heritage resources or cultural heritage landscapes, shall be conserved.*

The Province’s proposed definition of “*protected heritage property*” is as follows:

*means resources that have been determined to have cultural heritage value or interest using the processes and criteria for determining cultural heritage value or interest as established by the Province under the authority of the Ontario Heritage Act, including without limitation the following:*

- *property designated under Part IV or VI of the Ontario Heritage Act;*
- *property subject to a notice of intention to designate in accordance with section 29(1.1) and subject to the limitations in section 29(1.2) of the Ontario Heritage Act;*
- *property included in an area designated as a heritage conservation district under Part V of the Ontario*

*Heritage Act;*

- *property subject to a by-law designating an area as a heritage conservation study area in accordance with section 40.1(1) of the Ontario Heritage Act;*
- *non-designated (i.e. listed) property of cultural heritage value or interest recorded on the municipal register in accordance with section 27(3) of the Ontario Heritage Act;*
- *property subject to a heritage conservation easement or covenant under Part II or IV of the Ontario Heritage Act;*
- *property identified by a provincial ministry or a prescribed public body as a property having cultural heritage value or interest under Part III.1 of the Ontario Heritage Act and the heritage standards and guidelines;*
- *property with known archaeological resources in accordance with Part VI of the Ontario Heritage Act;*
- *property protected under federal heritage legislation; and*
- *UNESCO World Heritage Sites.*

ACO regards with alarm the restriction of the application of this marquee provincial policy to “protected heritage property”, effectively cutting out the vast majority of cultural heritage resources in the province. The new policy amounts to saying that only heritage property that is already protected has to be protected.

Instead of the current PPS 2020 policy 2.6.1, which encompasses all the properties in Ontario that would meet the criteria for designation in Ontario Regulation 9/06, whether they have been previously evaluated or not, the new policy would direct provincial and municipal planning authorities to conserve only formally designated property, archaeological sites and a few add-ons.

To put this in numeric terms, the new policy would only apply to the roughly 33,000 properties designated under Parts IV and V, an extremely small fraction of heritage properties in Ontario. Many tens of thousands of additional heritage places that do, or would, qualify under the current policy would be excluded from recognition in the Ontario’s land use planning framework. These include listed (non-designated) properties under section 27 of the OHA, properties that have been evaluated and meet the criteria but are not listed or designated, and properties that have not been evaluated but would criteria if they were. The classic example of the latter category is the hitherto unevaluated heritage building on a site proposed for development that is only evaluated because of a development application.

**ACO recommends that policy 4.6.1 be reworded as follows: *Cultural heritage property, which may contain built heritage resources or cultural heritage landscapes, shall be conserved.***

The new term “*cultural heritage property*” would be defined as follows: *Cultural heritage property means built heritage resources, cultural heritage landscapes, and archeological resources.*

While the above recommendation for policy 4.6.1 is ACO’s preferred option, should the province decide not to reword the policy and to retain the term “*protected heritage property*,” ACO makes the following observations and recommendations.

- The term “*protected heritage property*”, as defined, leaves out other forms of legally protected

property. These include: (i) listed property under section 27 of the OHA; (ii) property subject to interim control by-laws for areas being studied for Part V designation; and (iii) property subject to interim controls where a Part IV designation has been started but not completed.

- In the context of the adjacency policy in section 4.6.3, this exclusion of some forms of protected heritage property makes good policy sense by limiting the policy’s application to situations where the heritage attributes of the neighbouring heritage property have been formally identified (this generally means a property designated under Part IV or V). But as used in proposed policy 4.6.1., imprecision and inconsistency result when other types of legally protected property are not included in the definition — and there seems to be no policy reason to exclude them.
- Listed properties are by far the biggest excluded category. By the Ministry of Citizenship and Multiculturalism’s estimate there are some 36,000 listed properties in Ontario. Why exclude listed properties, which since 2006 have been formally identified and protected by some 70 municipalities? While the listing mechanism has been fettered as a result of Bill 23’s changes to the OHA, this important tool will continue to be used.

**ACO recommends that if the term “protected heritage property” is retained, the definition be adjusted, as set out below, to include listed property and the other forms of protected property mentioned above:**

*Protected heritage property: means*

- *property designated under Part IV or VI of the Ontario Heritage Act;*
- *property subject to a notice of intention to designate in accordance with section 29(1.1) and subject to the limitations in section 29(1.2) of the Ontario Heritage Act;*
- *property included in an area designated as a heritage conservation district under Part V of the Ontario Heritage Act;*
- *property subject to a by-law designating an area as a heritage conservation study area in accordance with section 40.1(1) of the Ontario Heritage Act;*
- *non-designated property of cultural heritage value or interest recorded on the municipal register in accordance with section 27(3) of the Ontario Heritage Act;*
- *property subject to a heritage conservation easement or covenant under Part II or IV of the Ontario Heritage Act;*
- *property identified by a provincial ministry or a prescribed public body as a property having cultural heritage value or interest under Part III.1 of the Ontario Heritage Act and the heritage standards and guidelines;*
- *property with known archaeological resources in accordance with Part VI of the Ontario Heritage Act;*
- *property protected under federal heritage legislation; and*
- *UNESCO World Heritage Sites.*

**2(b)** 4.6.3. *Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property unless the heritage attributes of the protected heritage property will be conserved.*

Given that ACO is proposing that the term “*protected heritage property*” be defined more broadly for use in policy 4.6.1., **ACO recommends that the term “*protected heritage property*” in policy 4.6.3 be replaced with “*designated heritage property*” with a definition similar to the existing one.**

The definition of “*adjacent lands*”, for the purpose of policy 4.6.3 being “*c) ... those lands contiguous to a protected heritage property*”, should be broader than just strictly contiguous properties; so the definition should include properties that do not necessarily touch the boundaries of a protected heritage property but might affect the protected heritage property.

**ACO recommends that the current language of policy 2.6.3 of the PPS 2020 be retained, which would allow municipalities to continue to establish alternative, broader definitions through their Official Plan policies.**

If, however, the province is determined to set a one-size-fits-all policy, ACO would suggest an alternative approach. Consider, for example, the requirements of the Planning Act with respect to notice to neighbours of proposed development activity. Notices are sent to neighbouring property owners within a stated distance (60 metres) from the property that is the subject of a minor variance, a severance or a zoning amendment application.

**ACO recommends that the definition of “*adjacent lands*” be broadened to include both contiguous properties and properties within a specific distance, such as 60 metres from the subject property.**

**2.(c) 4.6.4 Planning authorities are encouraged to develop and implement:**

- a) archaeological management plans for conserving archaeological resources; and*
- b) proactive strategies for identifying properties for evaluation under the Ontario Heritage Act.*

ACO notes with interest the introduction of the proposed policy 4.6.4 (b). We look forward to the province developing guidance examples of such proactive strategies. In addition, ACO would welcome the opportunity to be consulted on these guidance examples before they are finalized.

Architectural Conservancy Ontario, 2023