



# 2024 Provincial Planning Statement Transitional Matters

**Submitted to:** Ministry of Municipal Affairs and Housing

**Submitted by:** Ontario Bar Association

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## Executive Summary

The Ontario Bar Association ("**OBA**") welcomes the opportunity to provide feedback on the transition of land use planning matters to facilitate the introduction of a new policy statement issued under the *Planning Act*. The new Provincial Planning Statement ("**PPS**") comes into effect on October 20, 2024. The OBA provides this short submission recommending that the old PPS apply in cases where hearings have concluded before the effective date, but the decision is released after the effective date. This would ensure fairness and predictability with the transition and avoid unnecessary delays in resolving disputes.

## Ontario Bar Association

Established in 1907, the OBA is the largest and most diverse volunteer lawyer association in Ontario, with close to 16,000 members, practicing in every area of law in every region of the province. Each year, through the work of our 40 practice sections, the OBA provides advice to assist legislators and other key decision-makers in the interests of both the profession and the public and we deliver over 325 in-person and online professional development programs to an audience of over 20,000 lawyers, judges, students, and professors.

This submission was prepared and reviewed by members of the OBA's Municipal Law and Real Property Law sections. Members of these sections include barristers and solicitors in public and private practice in large, medium, and small firms, and in-house counsel across every region in Ontario. These members have extensive experience dealing with all aspects of the *Planning Act*, including transitional matters from previous Provincial Planning Statements.



## Comments & Recommendations

The OBA supports a blanket transition provision for the new PPS that would apply to concluded hearings for which a decision remains outstanding after the October 20, 2024, effective date. Without a transition provision, section 3(5) of the *Planning Act* requires those decisions to be consistent with the new PPS. In such a case, the Ontario Land Tribunal has historically struggled to come up with its own answer on how to proceed in these cases. It is often handled on a case-by-case basis, which in some cases, may require a new hearing or additional expert evidence, causing significant confusion, delay, the potential for inconsistent decisions, and potentially giving rise to appeals that could have otherwise been avoided.

If a hearing was concluded before October 20, 2024, but the decision is released after October 20, 2024, the old PPS should still apply. Decisions would be based on and consistent with the policies in place at the time of the hearing. Inserting a transitional provision would increase procedural fairness and predictability, avoid unnecessary burdens on the parties and the tribunal, and avoid further delaying decisions, which would be contrary to the government's overall policy goals.

We support this transitional provision applying generally to all cases that fall within these parameters. For clarity, we are not suggesting that this should be the only transitional provision included; we leave comments on individual cases and circumstances which may warrant additional transitional provisions to others.

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*The OBA would be pleased to discuss this further and answer any questions that you may have.*