



The Regional Municipality of Halton

Report To:	Chair and Members of the Planning and Public Works Committee
From:	Mark G. Meneray, Commissioner, Legislative & Planning Services and Corporate Counsel
Date:	March 25, 2015
Report No. - Re:	LPS39-15 - Bill 73: Land Use Planning Reform - Proposed Planning Act Amendments, 2015

RECOMMENDATION

1. THAT the comments set out in Report No. LPS39-15 re: "Bill 73: Land Use Planning Reform - Proposed Planning Act Amendments, 2015", be received for information.
2. THAT the Ministry of Municipal Affairs and Housing be requested to include a Halton representative on the Planning Working Group(s) and that staff be directed to continue to work through Halton Area Planning Partnership (HAPP) to undertake a comprehensive review of Bill 73 and report back to Council.
3. THAT the Regional Clerk forward a copy of Report No. LPS39-15 to the Ministry of Municipal Affairs and Housing, the City of Burlington, Town of Oakville, Town of Halton Hills, and the Town of Milton for their information.

REPORT

Executive Summary

On March 5, 2015, the Minister of Municipal Affairs and Housing introduced Bill 73, the **Smart Growth for Our Communities Act, 2015**, a Bill that amends the **Planning Act** (Bill 73 may be accessed at: <http://www.mah.gov.on.ca/Page11014.aspx>). Amendments were also made to the **Development Charges Act, 2007**, a subject of a separate report.

Through a joint submission with HAPP, Council endorsed five key recommendations to improve the current land use planning and appeal system: 1) Harmonize Provincial Plans and Policy Reviews; 2) Legislate Timelines for Provincial Decisions; 3) Restrict Certain Appeal Rights; 4) Reform the OMB; and 5) Enhance Public Engagement. These recommendations have generally been considered and incorporated by the Ministry in the proposed amendments to the *Planning Act*. Further Provincial consultations may be held providing Regional staff with continued opportunities to submit recommendations that achieve Regional Council's land use planning objectives.

Background

In October 2013, the Ministry of Municipal Affairs and Housing initiated a review of the land use planning and appeal system and undertook public consultation on these matters, extending into January 2014. The focus of the review was to make the systems “predictable, transparent, cost-effective and responsive to the changing needs of communities.” The review stated that it would not consider key comprehensive and/or systematic reforms, such as streamlining the OMB’s operations, practices and procedures.

On February 19, 2014, Regional Council, responded to the Province through the adoption of Report LPS10-14, which endorsed a Joint Submission made on December 19, 2013, and authored by the Halton Area Planning Partnership (HAPP). This submission identified five key recommendations to improve the current land use planning and appeal system:

- 1) Harmonize Provincial Plans and Policy Reviews;
- 2) Legislate Timelines for Provincial Decisions;
- 3) Restrict Certain Appeal Rights;
- 4) Reform the OMB; and
- 5) Enhance Public Engagement.

Discussion

Regional staff have reviewed the proposed amendments to the *Planning Act* against the five key recommendations made by Regional Council in 2013. This review also identifies other key changes proposed to the *Planning Act* by Bill 73 that were not identified in the Council submission.

Review of Bill 73 Changes to the Planning Act Against Regional Council’s Submission:

The following provides a brief discussion of each recommendation and whether amendments were made to address them.

1. Harmonize Provincial Plans and Policy Reviews

Regional Recommendation:

- Require the Province to harmonize the review/release of plans/policies to a consistent 10-year cycle.

Bill 73 Amendment: Recommendation addressed

- The Provincial Policy statement review period has been extended to a 10 year cycle from a 5 year cycle to align with the review of the provincial plans.

2. Legislative Timelines for Provincial Decisions

Regional Recommendation:

- Require the Province to provide decisions on Official Plans, for which they are the approval authority, within 180 days of Council's adoption.

Bill 73 Amendments: Recommendation partially addressed

- The Province has placed the onus on municipalities to submit an official plan amendment to the Province 90 days prior to the municipal approval to assist with streamlining Provincial approvals.
- The Bill has not proposed any amendments the **Planning Act** to require the Minister to issue a decision on an official plan within 180 days of receipt of the Notice of Council's adoption. The Bill does propose changes to the **Planning Act** to allow the extension of the 180 days by an additional 90 days at the request of the local municipality or the approval authority.

3. Restrict Certain Appeal Rights

Regional Recommendation:

- Restrict third party appeals pertaining to Regional conformity to Provincial Plans, including matters regarding Regional growth distribution (population and employment);
- Restrict private official plan appeals outside of the five-year review unless such amendments are specifically contemplated or provided for in the municipality's official plan.

Bill 73 Amendments: Recommendation partially addressed

- The Province has given municipalities more control and stability to implement official plans and zoning by-laws. No appeals will be permitted on official plan matters pertaining to:
 - allocated population and employment growth numbers under the **Places to Grow Act, 2005**;
 - vulnerable areas identified in plans made under the **Clean Water Act, 2006**;
 - the Greenbelt Area or Protected Countryside area of the Greenbelt Plan;
 - settlement area boundaries set out in approved upper-tier official plans.
- A new subsection states that no appeals to a new official plan will be permitted for a 2 year period, unless changes are initiated by a municipality.

- Applications to amend comprehensive zoning by-law updates that are made to conform with updated official plans, are also not permitted for a 2 year period.

4. Reforming the OMB

Regional Recommendations:

- Reform the OMB appeals process to address three main concerns:
 - 1) dismiss appeals that are broad and without basis;
 - 2) require appeals to be scoped such that they are specific and substantiated; and
 - 3) re-evaluate the mediation process (require it at the front end of the appeal process and increase mediation resources).

Bill 73 Amendments: Recommendations partially addressed

- For new official plans:
 - 1) no “global appeals” are permitted to the decision(s) to approve all of an official plan.
 - 2) Appellants, whose appeals pertain to policies being inconsistent with a provincial policy statement or plan or with an upper-tier official plan, must identify this in their notice of appeal. If the appellant fails to do so, the OMB may dismiss all or part of the appeal without a hearing.
 - 3) Council may now utilize mediation, conciliation or dispute resolution techniques prior to the initiation of the OMB process. In such cases, where dispute resolution is practiced, the filing of the notice of an appeal is extended to 75 days from 15 days to give opportunities to resolve potential appeals.

5. Enhance Public Engagement

Regional Recommendation:

- Amend the **Planning Act** notification regulations to enhance public engagement by using current technology and providing notification written in plain language.

Bill 73 Amendments: Recommendations partially addressed

- This may be amended through a future Regulation.
- The **Planning Act** section regarding official plan open houses has been repealed, with emphasis on ‘alternative procedures’ which must be identified in an Official Plan.

Additional Changes to the Planning Act Proposed in Bill 73:

In addition to the changes noted above, the Bill also amends the **Planning Act** to streamline the planning system in order to:

- 1) Provide more meaningful public input in Community Planning;
- 2) Ensure predictability in the planning and appeals process;
- 3) Increase municipalities' independence in resolving disputes;
- 4) Change the requirement for Parkland dedication; and
- 5) Change the requirement for the review employment lands.

The following provides further explanation of these matters:

1) Meaningful Public Input

The Bill proposes a new section in the **Planning Act** to mandate upper-tier and single-tier municipalities to have Planning Advisory Committees, with the requirement that a member of this Committee be neither a councillor nor a municipal employee.

2) Predictability in the Planning and Appeals Process

The Bill proposes to amend the **Planning Act** to require comprehensive official plan reviews to occur on a 10-year cycle rather than the current 5-year cycle. This 10 year cycle will thereby align municipal plan reviews with the Provincial cycle for reviewing plans and policy statements.

Within the Greater Golden Horseshoe area, population and employment forecasts under the **Places to Grow Act** may be reviewed on a 5 year basis but appeals to these forecasts will not be permitted thereby ensuring that planning documents are implemented more seamlessly.

Predictability in development approvals is proposed to be further strengthened by amending sections pertaining to the development permit system (which may also be called the 'community planning permit' system). The Minister may make an order requiring a municipality to adopt a community planning permit system for prescribed purposes. This is further strengthened through a proposed amendment that states that an upper-tier municipality may make a by-law imposing similar requirements on the lower-tier municipalities. The Minister may make an order requiring the upper-tier municipality to make such a by-law.

Once established through municipal by-law, the community planning permit system, along with any applicable official plan provisions implementing the system would not be open to applications for amendments during the initial 5 year period.

Decisions on minor variance applications are proposed to be further scoped within the **Planning Act** and require Committee of Adjustments to make decisions based on applications conforming to prescribed criteria contained within Zoning By-laws.

A proposed amendment to Section 37 pertaining to the 'Increased Density, etc., provision by-law', (and which is applicable only to lower- and single-tier

municipalities), requires that any monies collected under this section are to be kept in a special account and to be spent only for facilities, services and matters specified within that by-law.

3) Independence in Dispute Resolution

As outlined above, municipalities will now have the option to resolve disputes prior to appeals being filed with the OMB through voluntary mediation. An additional 60 days are provided to municipalities (75 days in total) to resolve any such disputes.

4) Cash in Lieu of Parkland

The Bill proposes to amend the **Planning Act** to require that a municipality must have a park master plan in place, in order to collect cash in lieu of parkland. The Bill also proposes to amend the **Planning Act** to decrease the parkland standard from one hectare per 300 units to 1 hectare per 500 units.

5) Employment Land Review

The Bill proposes to amend the *Planning Act* to remove the requirement that municipalities must review their employment lands every 5 years.

Conclusion

This report highlights key proposed amendments to the **Planning Act**. Based on a preliminary review of the Bill, Regional staff are of the opinion that although many of the Regional recommendations supported by Regional Council and the Halton Area Planning Partnership have been considered by the Ministry of Municipal Affairs and Housing and included in Bill 73, further amendments are still required to achieve Regional Council's land use planning objectives.

The Ministry of Municipal Affairs and Housing has indicated that it will continue to consult with stakeholders and will be setting up working groups to examine certain land use provisions in further detail and develop solutions to outstanding issues. Although these working groups have not yet been established, it is staff's intention to participate on one or more of these working groups to ensure that Halton's requirements and recommendations continue to be advanced to the Province.

Regional staff will also continue to work through the Halton Area Planning Partnership to undertake a comprehensive review of Bill 73 and will report back to Council with final recommendations thereafter.

FINANCIAL/PROGRAM IMPLICATIONS

The cost of reviewing Bill 73: Proposed Amendments to the *Planning Act* was funded through the Legislative and Planning Services approved 2015 operating budget.

Respectfully submitted,



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Services and Corporate Counsel

Approved by



Jane MacCaskill
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If you have any questions on the content of this report,
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Attachments: None