

Building Better Communities and Conserving Watersheds Act, 2017

Background

In 2016 the Province initiated a review of the Ontario Municipal Board's scope and effectiveness to determine improvements with respect to how the Board works within Ontario's broader land use planning system. Through a report entitled "Ontario Municipal Board Reform" from the General Manager of Growth and Infrastructure, on November 21, 2016 Council endorsed key recommendations for changes to the land use planning and appeal system. This formed the submission to the Province on behalf of the City in response to its review process.

The result of the Province's review was Bill 139, which received first reading on May 30, 2017 and included significant amendments to the land use planning appeal system in Ontario intended to give communities a stronger voice in land use planning. A report which outlined the changes proposed through Bill 139 and recommended comments was presented to Planning Committee on August 21, 2017. By way of Council resolution, the comments contained in the report were submitted to the Ministry of Municipal Affairs on behalf of the City of Greater Sudbury.

On December 12th, the Building Better Communities and Conserving Watersheds Act received Royal Assent.

With the Act now passed, the proposed transition regulations have been posted on the Environmental Registry for comment until January 21st, 2018.

Discussion

The purpose of this report is to update Council on the proposed transition regulations and their impact on current and future planning applications in the City. While the Act has been passed, it is not yet in force. It is anticipated that the Act will be proclaimed and come into force in the spring of 2018.

Per the Environmental Registry posting, it is proposed that the application of the Bill 139 changes be transitioned as follows:

- Removing appeals of provincial approvals of official plans and official plan updates, including for conformity exercises to provincial plans – these provisions would apply to provincial decisions in respect of which notice is given after the Bill comes into force;

- Restricting the grounds of appeal of a decision on an official plan/amendment or zoning by-law/amendment to consistency and/or conformity with provincial and/or local plans would apply to:
 - Appeals of decisions on those matters in respect of which notice is given after the Bill comes into force (i.e. appeals made during appeal periods that begin after the Bill comes into force; and
 - Appeals of decisions made before proclamation in respect of:
 - Complete applications made after Royal Assent
 - Municipally initiated official plan amendments that are adopted after Royal Assent; and
 - Municipally initiated zoning by-law amendments that are passed after Royal Assent.
- Restricting the grounds of a non-decision appeal on an application for an official plan amendment or zoning by-law amendment to consistency and/or, conformity with provincial and/or local plans would apply to:
 - Appeals of non-decisions made after the Bill comes into force; and
 - Appeals of non-decisions made before proclamation in respect of complete applications made after Royal Assent
- The removal of mandatory referrals of Minister's zoning orders would apply to requests to refer made after the Bill comes into force;
- The removal of appeals (other than by the Province) of interim control by-laws when first passed (for a period of up to 1 year) would apply to decisions made after the Bill comes into force;
- The restriction on the ability to amend secondary plans for 2 years following their approval, unless allowed by Council, would apply to applications for amendments to secondary plans that come into effect after the Bill comes into force;
- The extension for decision timelines on applications for official plan amendments and zoning by-law amendments would apply to complete applications submitted after Royal Assent and the extension for decision timelines for approval authorities on adopted official plans/amendments would apply to official plans/amendments adopted after Royal Assent.

Also posted to the Environmental Registry for comment are proposed amendments to matters included in existing regulations under the Planning Act, specifically:

- Revising what information is to be included in the giving of notice (e.g. some decisions would be final and not subject to appeal):

- Revising what information and material is to be included in a complete application (e.g. to include how an application conforms with the relevant official plan(s));
- Revising what is required to be forwarded to the Local Planning Appeal Tribunal on an appeal (e.g. the municipal statement would need to indicate whether the decision conforms with the relevant official plan(s));
- Replacing references to Ontario Municipal Board with Local Planning Appeal Tribunal; and/or
- Updating relevant legislative cross-references.

Assuming that these transitional regulations are issued as proposed, generally the following would apply to existing and future Planning Act Applications:

- Appeals to the OMB before Dec 12th would stay at the OMB;
- Complete applications filed before Dec 12th would be heard by the OMB if appealed;
- Complete applications filed after Dec 12th will be heard by the LPAT if appealed, and
- Appeals filed after proclamation (decisions or non-decisions) go to the LPAT

In situations where a decision on the relevant instrument is issued after proclamation, the following restrictions would apply:

- No appeals of Ministerial Zoning Orders
- No ability to appeal an Interim Control By-law (ICBL) for one year
- No ability to apply to amend an approved Secondary Plan

With respect to appeal and approval timelines, the following would apply:

- The extended appeal timelines (210 days for Official Plan Amendments; 150 days for Zoning By-law Amendments; 210 days for a combined Official Plan Amendment and Zoning By-law Amendment) will apply to complete applications filed after Dec 12th.
- The approval authority's timeline in which to approve an adopted OP/OPA is now 210 days.

Staff Comments on Proposed Regulations

Staff have reviewed the proposed regulations on the Environmental Registry and have no comments or concerns.

Summary

Planning Services staff have generally been supportive of the changes resulting from *Building Better Communities and Conserving Watersheds Act*, 2017 and continue to be supportive of the proposed transition regulations.

Resources Cited

Environmental Registry - Proposed new regulation under the Planning Act to prescribe transitional provisions for the Building Better Communities and Conserving Watersheds Act, 2017 (Bill 139) <https://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTMzODk5&statusId=MjAzNjY4&language=en>

Proposed amendments to matters included in existing regulations under the Planning Act relating to the Building Better Communities and Conserving Watersheds Act, 2017 (Bill 139)

<https://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTMzOTAx&statusId=MjAzNjcw&language=en>

Bill 139: Building Better Communities and Conservation Watersheds Act – City of Greater Sudbury Planning Committee, August 21, 2017
<https://agendasonline.greatersudbury.ca/index.cfm?pg=feed&action=file&agenda=report&itemid=13&id=1112>

Ontario Municipal Board Reform – City of Greater Sudbury Planning Committee, November 21, 2016
<https://agendasonline.greatersudbury.ca/index.cfm?pg=feed&action=file&agenda=report&itemid=12&id=995>