



HEALTHY COMMUNITIES • SUSTAINABLE COMMUNITIES

June 3, 2015

John Ballantine, Manager
Ministry of Municipal Affairs and Housing
Local Government and Planning Policy Division
Municipal Finance Policy Branch
777 Bay Street
Floor 13th
Toronto, ON M5G 2E5

Re: Proposed Bill 73 Smart Growth for our Communities Act (2015)

Dear Mr. Ballantine,

On behalf of the Ontario Professional Planners Institute (OPPI), I am submitting the Institute's response with regards to the proposed *Bill 73 Smart Growth for Our Communities Act*, (2015) – EBR Reference Number **012-3651**.

OPPI is the recognized voice of the Province's planning profession. Our more than 4,000 members work in government, private practice, universities, and not-for-profit agencies in the fields of urban and rural development, community design, environmental planning, transportation, health, social services, heritage conservation, housing, and economic development. Members meet quality practice requirements and are accountable to OPPI and the public to practice ethically and to abide by a Professional Code of Practice. Only Full Members are authorized by the Ontario Professional Planners Institute Act, 1994, to use the title "Registered Professional Planner" (or "RPP").

It is our understanding that the first reading of Bill 73 is the result of consultation and engagement undertaken by the Province through the course of 2013 and early 2014. OPPI provided comments to the Province on both the [Land Use Planning and Appeals Consultation \(EBR #012-0241, refer to our letter dated January 9, 2014\)](#) and [Development Charges Act Consultation \(EBR # 12-0281, refer to our letter dated January 10, 2014\)](#).

In general, OPPI supports the Province's effort to improve our legislative tools and welcomes a number of positive changes that are being proposed within Bill 73. We are pleased to see that a number of the comments and issues raised in our earlier submissions have been addressed. There are also opportunities, however, for improvement and it is within this framework that we offer the following comments.

Please note that our submission is organized into two main sections:

- Part 1 Comments on Proposed Changes to the Planning Act
- Part 2 Comments on Proposed Changes to the Development Charges Act

PART 1: COMMENTS ON PROPOSED CHANGES TO THE PLANNING ACT

Generally, we believe that a number of the proposed changes to the Planning Act will achieve the goals set out by the Province to:

- Allow for more effective citizen engagement in the planning process;
- Provide more stability for municipal planning documents and increase municipal accountability;
- Strengthen the protection of provincial interests;
- Encourage more proactive planning; and,
- Provide enhanced planning tools at the local level.

We offer the following specific comments with respect to Bill 73's proposed Planning Act changes.

1. *10 Year Timeframe to Implement the PPS*

OPPI supports the extension of the timeframe to review the Provincial Policy Statement (PPS) from five years to ten years. The extension of this timeframe should afford municipalities more time to properly contemplate and implement major changes to the PPS. This timeframe should also allow the Province to conduct meaningful stakeholder engagement when reviewing the PPS.

We would also suggest that the Province harmonize the timeframes for reviewing the PPS with the other major Provincial Plans (Greenbelt Plan, Oak Ridges Moraine Plan, Growth Plan for the Greater Golden Horseshoe and the Niagara Escarpment Plan), to minimize the potential for "perpetual review".

2. *10 Year timeframe to Review a New Official Plan*

OPPI supports the proposed change to extend the timeframe for reviewing a plan from five years to ten years, after a new plan has been approved for the Planning Act. Most municipalities undertake considerable effort and engagement when preparing a new official plan. In some cases, it may take up to five years for a new plan to come fully into effect (including time for dispute resolution and appeals). With this in mind, we believe the extended time frame is a reasonable and rationale period. We would suggest, however, that the ten year timeframe be stated as a maximum, and where desirable, municipalities should be encouraged to review their plans based on local circumstances (and sooner if needed). Some consideration for defining a "new" official plan should also be considered.

3. *Limitation on Whole Plan Appeals*

OPPI previously recommended that the Province consider limiting whole plan appeals and we are supportive of the effort to limit the potential for frivolous "whole plan" appeals. We are also supportive of the changes which limit appeals on certain matters of provincial interest, including:

- Vulnerable areas under the Clean Water Act, the Greenbelt Area or Protected Countryside or the Oak Ridges Moraine Conservation Plan Area;
- Population and employment forecasts (Growth Plan for the Greater Golden Horseshoe) assigned through the Growth Plan to an upper tier municipality, as well as forecasts assigned to a lower tier municipality where an upper tier plan has been approved; and
- Settlement area boundaries in a lower tier official plan, where the corresponding upper tier plan has been approved.

We note that the need to review employment lands as part of the Official Plan review process has been removed as a mandatory requirement. While we understand that the employment land component of an Official Plan review can be controversial and result in time consuming appeals, we believe that the Province should encourage municipalities to proactively plan for employment growth. Our economy is dynamic and it is crucial that communities should be free to modify, update and review employment area policies to respond to emerging issues and opportunities. There are alternative tools that would help to better protect employment areas over the long term and reduce the potential for controversial appeals. While the current Planning Act limits appeals on site specific conversions, we suggest that the Province consider restricting appeals on the approval of employment land policies, where local municipalities have implemented/applied the policies of the Growth Plan. Some criteria could be established to further scope the potential for appeals on employment land policies.

4. *Two Year Restrictions on Amendments to a New Official Plan and Comprehensive Zoning By-Law*

In general, we are supportive of the Province's intent to limit appeals on new official plans and comprehensive zoning by laws. Some additional attention is needed, however, to allow for flexibility to recognize the different approaches undertaken by municipalities. Some rural municipalities, for example, rely on the amendment process to refine Official Plan boundaries of natural features. Older cities rely on the amendment process to refine various development standards which may not easily apply to all sites. Accordingly, while we understand the intent is to limit appeals on new plans and zoning by-laws, we encourage the Province to provide some additional flexibility to municipal councils to ensure that the development process continues to run relatively smoothly.

5. *Mandatory Policies for Public Engagement in Official Plans*

OPPI supports the Province's direction to make the inclusion of policies on public engagement a mandatory requirement of all official plans.

6. *Alternative Forms of Consultation and Notification*

The Planning Act currently allows for alternative measures of consultation and engagement for official plan and zoning by-law amendments. OPPI is supportive of the extension of these permissions to subdivisions and consents. Making best use of technology should allow for robust citizen and stakeholder engagement on planning matter.

7. *Response Required for Written and Oral Submissions*

It is our understanding that Bill 73 provides new direction for various decision makers to provide explanations as to how to deal with various written and oral submissions submitted as part of a public meeting. Overall, OPPI is supportive of this direction, as it encourages transparency and accountability. The Province, however, should provide some guidance for implementation and some flexibility which allows for a general summary of comments/responses regarding major initiatives, such as an official plan review, comprehensive zoning by-law, secondary plan, etc.

8. *Dispute Resolution*

OPPI supports Bill 73's direction to allow decision-makers to use dispute resolution, such as mediation and conciliation, to resolve conflicts prior to holding an OMB hearing. We expect that further details on the process/protocols will be provided through implementing regulations.

9. *Mandatory Planning Advisory Committees*

OPPI is supportive of the direction to make planning advisory committees mandatory for all single tier and upper tier municipalities (and optional for lower tier municipalities). A number of municipalities make use of the current Planning Act provisions and maintain a number of advisory committees. The Province should provide some general criteria for citizen membership, to ensure consistent principles are applied across the Province.

10. *Community Planning Permit System*

OPPI is an advocate of the Development Permit System, which is intended to streamline the development approvals process. Bill 73 includes provisions which would allow the Province or an upper tier municipality to impose a Community Planning Permit System on a local municipality. We also understand there has been limited adoption of Development Permit Systems in the Province (for a variety of reasons) and suggest that Bill 73 be revised to provide criteria for how/when such a system could be imposed. Through proper guidance and criteria, the tool can avoid unintended consequences (conflicts between upper tier and lower municipalities, increased local costs, potential for appeals, etc.). We encourage the Province to consider providing policies which would allow municipalities to develop and implement conditional zoning and/or form-based codes.

11. *Requirement for Parks Plan*

Bill 73 requires municipalities to prepare a parks plan that examines the need for parkland within the municipality, prior to adopting a by-law that provides for park land dedication. OPPI is supportive of this proposed change. We suggest that the Province provide some guidance as to how often the by-law standards are to be reviewed.

12. *Requirement for Annual Financial Statements related to Section 37 Community Benefits*

OPPI supports the Province's effort to increase transparency and accountability. With this in mind, OPPI is generally supportive of Bill 73's requirement for additional reporting requirements to demonstrate how and where community benefits have been collected and applied.

PART 2: COMMENTS ON PROPOSED CHANGES TO THE DEVELOPMENT CHARGES ACT

Development charges are a critical tool for municipalities. These act as one of the primary financial tools, allowing municipalities to plan for growth and deliver necessary physical improvements for communities. OPPI supports the Province's efforts to improve the Development Charges Act and it is our understanding that the intent of the changes are to:

- Enhance funding for municipal transit systems
- Enhance transparency and accountability regarding payment of development charges and additional fees
- Identify services that are ineligible for collection of development charges through regulation
- Require municipalities to examine the application of varying development charges within different areas of a municipality
- Enhance municipal development charges reporting requirements

With these in mind, we offer the following key comments:

1. Transit Discount Removed

OPPI supports the removal of the 10% discount for transit services. This was previously raised in our [January 10, 2014 submission](#) and we are encouraged by the proposed changes. The removal of the 10% discount will help to better support local sources of transit funding. We would also like to take this opportunity to re-iterate a concern raised in our [May 28th submission](#) on the Provincial Plan Review. Local municipal sources of funding alone will not be sufficient to deliver comprehensive transit systems to our communities and we strongly encourage the Province to explore a dedicated source of funding for transit (refer to our May 28th submission for additional details).

2. Use of Alternative Level of Services

OPPI supports the proposed opportunity for municipalities to develop cost recovery charges based on projected future levels of service (as opposed to the use of the 10 year historical average). While we understand that the regulations will provide more details, we encourage the Province to provide clarity on how and when alternative methodologies will be accepted. We suggest that the Province strengthen this particular policy to reduce the potential for conflict in its application.

3. Reporting Requirements

OPPI supports the enhanced reporting requirements that are intended to increase transparency and accountability. Requiring municipalities to create an annual report that shows how parkland dedication and density bonusing fees have been collected and applied is a reasonable policy. To ensure that a consistent approach to reporting is applied across the Province, we encourage the Province, through the implementing regulations, to provide guidance as to the content of the reporting.

4. Linking Development Charges to Asset Management

The proposed changes to the Act direct municipalities to integrate asset management planning with the preparation of the Development Charges Background Studies. In principle, OPPI supports this change, although we understand that this may require significant harmonization efforts for some municipalities.

SUMMARY

OPPI supports the Province's efforts to improve and streamline Ontario's planning system. We welcome the opportunity to meet with you and your staff to discuss our submission and answer any questions you may have. To schedule a meeting or for further information, please contact me at 416-668-8469 or by email at l.ryan@ontarioplanners.ca

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Ryan', followed by a horizontal line.

Loretta Ryan, MCIP, RPP, CAE
Director, Public Affairs