



VISION 2016 – 2020

Conservation Ontario will be the leader in engaging Conservation Authorities in matters of common interest and in shaping effective policy related to Conservation Authorities

Conservation Ontario Council Report

From: Leslie Rich, Policy and Planning Liaison

Date: March 27, 2018

Subject: Conservation Ontario's comments on the "Proposed new regulation under the Planning Act to prescribe transitional provisions for the Building Better Communities and Conserving Watersheds Act, 2017 (Bill 139)" (EBR#013-1788) and "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)" (EBR#013-1790)

Summary

Bill 139 has fundamentally changed the planning regime in Ontario. In order to transition to the new planning system, the Province has proposed two regulations to address transitional applications and minimum information requirements for appeals. Conservation Ontario provided feedback on these two proposed regulations, and were generally supportive of the Province's proposed approach.

Recommendation

THAT the comments on "Proposed new regulation under the Planning Act to prescribe transitional provisions for the Building Better Communities and Conserving Watersheds Act, 2017 (Bill 139)" (EBR #013-1788) and the comments on the "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)" (EBR #013-1790) both submitted to the Ministry of Municipal Affairs and Housing on January 19, 2017, be endorsed.

Background

On December 12, 2017, Bill 139 received Royal Assent. In addition to the creation of a new *Conservation Authorities Act*, Bill 139 fundamentally changed the manner in which local planning decisions are made in Ontario, including providing greater authority to municipal councils. In addition, Bill 139 establishes the Local Planning Appeal Tribunal (LPAT), which replaces the Ontario Municipal Board (OMB). Most of the planning elements of Bill 139 came into effect on April 3, 2018, the day named by proclamation of the Lieutenant Governor. Bill 139 limits the rights of appeal in the *Planning Act* for decisions made after

April 3, 2018, including the removal of the right to appeal from provincial approvals of new Official Plans and from Official Plan amendments and the removal of appeals of interim control by-laws for a period of up to 1 year. A new standard of review is in place wherein appeals to the LPAT must demonstrate that the municipal council's decision was not in conformity with the Provincial Policy Statement, applicable provincial plans and/or the municipality's Official Plan.

To support the transition to this new planning regime, the province has proposed two new regulations:

- EBR# 013-1788: to prescribe transitional provisions for Bill 139
- EBR# 013-1790: Proposed amendments to matters included in existing regulations

Current Status

EBR #013-1788

The proposed transition regulation will set out rules for planning matters in process at the time of Royal Assent of Bill 139 and the subsequent changes to the *Planning Act*. The proposed transitional regulation outlines that appeals that are already before the OMB as of Royal Assent of Bill 139 would be subject to the existing rules, whereas appeals made after Royal Assent would be subject to the new rules and be heard by the LPAT. This transitional regulation would apply equally to the removal of appeals of provincial approvals of Official Plans and to the restricting of the grounds of an appeal of a decision to consistency and/or conformity with provincial and local plans.

EBR #013-1790

This regulation proposes to outline minimum requirements with respect to the information that must be submitted with each land use planning application and what information must be included in the record of materials on an appeal.

The proposed new regulations were distributed to the CA Planning Contacts for comment. Comments on the posting were received from Halton, Kawartha, Central Lake Ontario and Grand River Conservation Authorities. On January 19, 2018, Conservation Ontario submitted the attached responses to the province.

Generally, the proposed regulations were supported by Conservation Authorities as reducing the number of appeals to draft Official Plans will assist municipalities in finalizing them and becoming compliant with provincial policy. Conservation Authorities were also supportive of the changes as they are intended to give more credence to decisions made by local councils. It is noted that an increased number of appeals for lack of decision appeared to have been brought forward prior to the enactment of Bill 139, so these appeals under the previous regime (i.e. the Ontario Municipal Board) will likely be ongoing for the foreseeable future.

Conclusion

The purpose of these two regulations is to facilitate the transition to the new planning regime as created through the passage of Bill 139. It is anticipated that proposed regulations made under the *Planning Act* will be finalized in the near future. Conservation Ontario staff have continued to provide email updates to CA Planning staff regarding the changes to the planning system.



January 19, 2018

Ken Petersen, Manager
Ministry of Municipal Affairs and Housing
Local Government and Planning Policy Division
Provincial Planning Policy Branch
777 Bay Street, Floor 13
Toronto, ON M5G 2E5

Re: Conservation Ontario's Comments on the "Proposed new regulation under the Planning Act to prescribe transitional provisions for the Building Better Communities and Conserving Watersheds Act, 2017 (Bill 139)" (EBR #013-1788)

Mr. Petersen:

Thank you for the opportunity to provide comments on the "Proposed new regulation under the Planning Act to prescribe transitional provisions for the Building Better Communities and Conserving Watersheds Act, 2017 (Bill 139)". Conservation Ontario is the network of Ontario's 36 Conservation Authorities (CAs). Conservation Authorities have significant expertise in land-use planning, including being delegated to represent the provincial interests regarding natural hazard policies of the *Provincial Policy Statement (PPS)*, acting as public commenting bodies pursuant to the *Planning Act*, entering into service agreements to provide technical advisory roles and as the administrator of a development regulation that affects land use planning matters.

Generally, these proposed changes are supported by Conservation Authorities as they will assist municipalities in becoming compliant with updated provincial policy, through reducing the number of appeals. By restricting the grounds for appeal, provincial policies which protect important environmental features and functions should be better implemented throughout the planning process. This should assist municipalities and Conservation Authorities moving forward through a reduction of hearings before the tribunal in order to defend these policies on behalf of the province.

Conservation Authorities are also generally supportive of the proposal to allow applications that have already been deemed complete to be processed under the previous planning regime and that anything that is not complete or appealed prior to December 12th would require processing under the new regime. It is noted that an increased number of appeals for lack of decision appeared to have been brought forward prior to the enactment of Bill 139, so these appeals under the previous regime will likely be ongoing for the foreseeable future.

Conservation Authorities appreciate the province's efforts to provide greater certainty in planning decisions, particularly the requirement to follow higher order plans. Should you have any questions about this letter, please contact me at extension 226.

Sincerely,

Leslie Rich, RPP
Policy and Planning Liaison

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Generally, these proposed changes are supported by Conservation Authorities as they are intended to provide more credence to decisions made by local Councils and greater adherence to locally-approved Official Plans. It is noted that there is scant information contained in the posting, and that Conservation Authorities generally would appreciate an opportunity to provide feedback to the province regarding what constitutes a complete application. While it is acknowledged that appeals to the tribunal have been limited moving forward, having more stringent parameters about complete applications would help to dissuade any discussions regarding lack of decision.

Thank you for the opportunity to provide input to the province on the "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)". Should you have any questions about this letter, please contact me at extension 226.

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