

## Report PDR-PCD-25-15

**To:** Chair Wright and Members of the Planning and Community Development Committee

**From:** Randy Scherzer, Scott Taylor, Sarah Morrison and Alisha Buitenhuis

**Meeting Date:** May 19, 2015

**Subject:** **Bill 73 – Proposed Changes to the Planning Act and the Development Charges Act**

**Status:** Recommendation adopted by Committee as amended per Resolution PCD76-15; Endorsed by County Council June 2, 2015 per Resolution CC81-15;

### Recommendation(s)

**WHEREAS the Province has released for comments Bill 73 being the ‘Smart Growth for Our Communities Act’ which proposes to make changes to the Planning Act and the Development Charges Act;**

**NOW THEREFORE BE IT RESOLVED that Report PDR-PCD-25-15 be received which highlights the proposed changes to the Planning Act and the Development Charges Act and provides some comments for the Province’s consideration;**

**AND THAT this report be forwarded onto the Ministry of Municipal Affairs and Housing as the County of Grey comments on the proposed Bill 73;**

**AND THAT this report be forwarded onto member municipalities within Grey for their information.**

### Background

From the fall of 2013 to early 2014, the government of Ontario undertook consultations on the land use planning and appeal system, and development charges system to ensure both systems are transparent, cost effective and responsive to the changing needs of communities. Based on the comments received through the consultation process, the Province has released Bill 73 (Smart Growth for Our Communities Act) for comments which propose to make changes to the Planning Act and the Development Charges Act (see link to Bill 73 webpage in the Attachments section below). The Province has indicated that if Bill 73 passes that it would give residents more say in how their communities grow, would set out clearer rules for land use planning, give

municipalities more independence to make local decisions and also make it easier to resolve disputes.

### *Proposed Changes to the Development Charges Act*

The following are highlights of the proposed changes to the Development Charges Act:

- Increase the potential amounts which could be collected to support the expansion of a transit system by removing the current mandatory 10% discount required when levying a charge for transit services.
- Municipalities would be able to recover capital costs associated with waste diversion.
- Allow the use of planned level of service for calculations of development charges versus the current historic 10 year average service level
- Consideration of area-specific charges will be mandatory
- Increased detail in reporting requirements and requirements to link development charges to asset management planning
- More control over other charges such as Section 37 collections under the Planning Act for the granting of zoning bonuses.

It appears for the most part the proposed changes to the Development Charges Act are positive. At this time there is limited detail regarding the proposed changes and it is likely that further detail will be provided in implementing regulations should the Province pass Bill 73. The County is scheduled to review the Development Charges By-law and to update the Development Charges Background Study in 2016. Should Bill 73 be passed, any proposed changes to the Act will be considered and incorporated as part of the review of the County's Development Charges By-law.

### *Proposed Changes to the Planning Act*

The following are some highlights and comments on the proposed changes to the Planning Act:

- Section 8 (1) would require that the Council of every upper-tier municipality and the Council of every lower-tier municipality that is not in a territorial district, shall appoint a planning advisory committee and shall include at least one member who is neither a councilor nor a municipal employee.

Should the above sections be approved by the Province, the County would be required to establish a planning advisory committee with at least one representative who is not a councilor or a municipal employee. It is not clear at this stage what the roles and responsibilities will be of the planning advisory committee. Will the planning advisory committee play a similar role as the Tourism Advisory Committee by providing advice to the Standing Committee/Council on policy related matters (e.g. review of the County Official Plan) as well as advice on special projects (e.g. Growth Management Study,

Natural Heritage Systems Study, etc.) or would the planning advisory committee be responsible for reviewing planning applications? Would the planning advisory committee replace the current Standing Committee? The requirement for public representation on planning advisory committees could fundamentally change the current “standing committee” structure that the County has in place for planning matters. A lot of questions remain about the roles and responsibilities of the planning advisory committee and staff recommend that the Province provide further detail on the purpose of the planning advisory committee and expectations on the roles and responsibilities of said committee.

- Section 8(2) indicates that the council of a lower-tier municipality, the council of a single-tier municipality that is in a territorial district, or the Township of Pelee may appoint a planning advisory committee.

It also appears that the wording in Sections 8(1) and 8(2) conflicts with one another with respect to whether lower-tiers are required to appoint a planning advisory committee or not. Section 8(1) states that unless you are in a territorial district, lower-tier municipalities shall appoint a planning advisory committee, however it appears that section 8(2) provides an option for lower-tier municipalities. It is recommended that the Province revise these sections and clearly identify whether it is intended that lower-tier municipalities are required to appoint a planning advisory committee or whether this will be optional.

- During the two year period following adoption of a new official plan (subsection 22(2.1)) or the replacement update of a municipality’s zoning by-law implementing a section 26 (5 year review update) to an official plan (subsection 34(10.0.0.1)), no application for amendments to the official plan or the zoning by-law are permitted. Similarly, no minor variances are permitted during the two-year period following a site-specific zoning by-law amendment unless permitted by Council.

The two year freeze on amendments to an official plan and zoning by-law as noted above is a little heavy handed in staffs opinion and could have the impact to impair economic development. For example, if a development proposal came forward within the two year freeze period and the development required either an official plan amendment or a zoning by-law amendment, the developer would not be able to apply for an amendment. There are times when unique proposals come forward that were never envisioned or contemplated by Council at the time when planning documents were being prepared/updated and therefore were not identified as a permitted use. One recent example of a unique land use is medical marihuana facilities, where a Council may be supportive of these facilities but never considered permitting them specifically in the municipalities planning documents because they are fairly recent phenomenon. It is recommended that the Province revise these sections to indicate that the receiving of such applications within the two year freeze period be at the discretion of Council to

ensure that any economic development opportunities that Council supports could still proceed in a timely manner.

It appears that the proposed amendment freeze to official plans and zoning by-laws only applies to privately initiated applications and therefore municipalities would still be able to approve general amendments (e.g. housekeeping amendments) to an official plan or a zoning by-law within the two year freeze period.

With respect to the proposed two year freeze on minor variances following a site specific rezoning, this could become problematic where municipalities have set up separate committees of adjustment to approve minor variances because it appears that before a committee of adjustment could contemplate a minor variance, the Council must declare by resolution that the application for minor variance is permitted. Local municipalities will need be cognizant of this should the changes to section 45 be approved.

- The requirement to report in notice of decisions the effect, if any, that written and oral submissions had on decisions.

County staff recognize that the requirement for an explanation in the notice of decision of how public input shaped a planning decision has good intentions, however staff are concerned that this could be tough to implement and interpret unless there is a prescriptive accompanying regulation. Depending upon the level of detail required the notice of decisions could become quite lengthy. It is recommended that further information be provided by the Province regarding the level of detail expected to be included as part of the notice of decision.

The following are highlights of some of the other proposed changes to the Planning Act which staff perceive as positive changes:

- Provide enhanced opportunities for alternative dispute resolution to resolve certain types of objections to planning approvals and extend the notice period for appeals to the Ontario Municipal Board should the alternative dispute resolution be utilized.
- Extending the review cycles of official plans from 5 years to 10 years after a new official plan comes into effect, and every 5 years thereafter unless the plan has been replaced by another new official plan.
- Requiring municipalities to prepare park plans, in consultation with school boards and the public, before adopting alternative parkland dedication rate policies (subsections 42 (4.1 to 4.3) and 51.1(2.1 to 2.3)). There are also some additional reporting requirements for funds (cash-in-lieu of parkland) collected by a municipality;
- Requiring appeals to official plans and zoning by-laws to clearly identify the reasons for the appeal by providing a specific list of issues.

- Limiting appeals for certain conformity exercise updates (e.g. implementation of approved sourcewater protection plans, etc.) – subsections 17(24.4), (24.5), (36.3) and (36.4).

In general, staff are supportive of the proposed changes to the Development Charges Act and the Planning Act. For some of the proposed changes, it is unclear as to the extent of the change without further detail being provided which will likely be provided through regulations that the Province will approve following the passage of Bill 73.

## Financial / Staffing / Legal / Information Technology Considerations

Should the County be required to establish a planning advisory committee, there could be additional financial expenses (e.g. mileage, etc.) and staff time to administer these committees. Some of the changes to the Acts could result in required updates to the County's Development Charges By-law and the County Official Plan amendment, however these updates can be coordinated with future reviews and updates of these documents.

## Link to Strategic Goals / Priorities

Not applicable.

## Attachments

[Bill 73 - Ministry of Municipal Affairs and Housing Webpage](#)

Respectfully submitted by,

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